

Chapter 8

PUBLIC WAYS AND PROPERTY

Article 1. General Provisions

Sec. 8-101 MUNICIPAL PROPERTY; MAINTENANCE AND CONTROL. The Governing Body shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares, and commons within the Municipality, and shall cause the same to be kept open and in repair, and free from nuisances. (Neb. Rev. Stat. §16-609, 16-610)

Sec. 8-102 REAL ESTATE; SALES. 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, or the Nebraska Armory Board, shall be exercised by ordinance directing the conveyance of such real estate and the manner and terms thereof. Notice of such sale and the terms thereof shall be published for three (3) consecutive weeks in a legal newspaper published in or of general circulation in such City immediately after the passage and publication of such ordinance; Provided, if a remonstrance against such sale signed by legal electors thereof equal in number to thirty (30%) per cent of the electors of such City voting at the last regular municipal election held therein, be filed with the Governing Body of such City within thirty (30) days of the passage and publication of such ordinance; said property shall not then, nor within one (1) year thereafter, be sold. (Neb. Rev. Stat. §16-202)

Sec. 8-103 BENCH MARK. The bench mark or datum line to which points on the grades of sewers, streets and other improvements are to be reckoned is hereby established to be No. 1099.69 of the United States Geodetic Survey, located at the northwest corner of the Courthouse in the City of Blair, Nebraska, in the west face of the cornerstone of such building between the letters "A" and "D" four (4) feet above the ground, the deepest point of a chiseled "V" which forms a period between the letters "A" and "D" being established as such bench mark, same being at an M.S.L. elevation of 1099.2333.

Sec. 8-104 Reserved for future use. Section repealed by Ordinance 2181 03/09/2010. Refer to Section 6-326.04

Sec. 8-105 MUNICIPAL PROPERTY AND RIGHT OF WAY; OBSTRUCTIONS.

- (A) Trees, Shrubs and Other Vegetation: Trees, shrubs, and other vegetation growing upon or near the lot line or upon public ground and interfering with the use and construction of any public improvements, including sidewalks and streets, shall be deemed an obstruction under this Article. The roots, branches or other portion of such trees, shrubs or other vegetation deemed to be an obstruction by the City Administrator or the Director of Public Works may be removed by the City of Blair at the expense of the owner of the property upon which the tree, shrub or other vegetation is located should the owner fail or neglect, after written notice, to do so.
- (B) Obstructions: It shall be unlawful for any person, persons, firm, corporation or other entity to place or cause to be placed any fence, gate, building, structure, sign, banner, vending machine or other obstruction on any sidewalks, alleys, streets, or any other public property or public

right-of-way; provided, however, the following exceptions shall apply, to-wit:

- (1) Signs which are authorized under Section 8-109 through 8-111 of the Municipal Code for the City of Blair, Nebraska, shall be lawful: and,
 - (2) Newspaper vending machines may be placed upon any public right of way in the City of Blair, Nebraska, which is located in any commercial zoning district, providing that the following terms and conditions are satisfied:
 - (a) A request for the placement of a newspaper vending machine shall be initiated by filing an application with the City Administrator upon forms prescribed for that purpose. The application shall be accompanied by a drawing or site plan which sets forth the location of said vending machine, and, in considering whether or not to grant the application the office of the City Administrator shall consider pedestrian safety and convenience, traffic and pedestrian flow and control glare and compatibility and harmony with properties in the district.
 - (b) The length of time that a newspaper vending machine may be placed upon such property shall be determined by the office of the City Administrator.
 - (3) Notwithstanding the provisions of Section 8-105(b)(2) immediately hereinabove, it shall be unlawful to place or allow to be placed any newspaper vending machines on any right of way or public owned sidewalk along that portion of Washington Street which is located in the Central Business District; and,
- (C) Any unlawful obstructions may be removed by the City of Blair at the expense of the person, persons, firm, corporation or other entity, owning, placing or allowing such obstruction to be unlawfully placed, should such person, persons, firm, corporation or other entity fail or neglect to remove the same after written notice thereof.

Sec. 8-106 CLOSING HOURS OF CITY PARKS. Closing hours for Black-Elk Neihardt Park are hereby established and Black-Elk Neihardt Park shall be closed daily from thirty (30) minutes after sunset to thirty (30) minutes before sunrise, except by parties that reserve the use of Neihardt Park facilities. Closing hours for all other City Parks in the City of Blair, Nebraska, are hereby established and said Parks shall be closed daily between the hours of twelve (12:00) o'clock Midnight and five (5:00) o'clock A.M. It shall be unlawful for any person to loiter in any City Park during closing hours. (Penalties refer to Sections 8-701 through 8-703 or Addendum to Code Violations Bureau Fee Schedule). (Amended by Ordinance 2140 06/10/2008) (Amended by Ordinance 2289 10/27/2015)

Sec. 8-107 CARE OF PROPERTY BETWEEN CURB AND LOTS LINES. It shall be the duty and responsibility of the owners and adult occupants of any lot or tract of ground abutting upon any street or other thoroughfare in the City to keep the space between the lot line and curb line of the street free and clear of weeds, rubbish and obstruction and to keep mown the grass and sod thereon so the same will not exceed three (3") inches in height and also to prune and clip any hedge, shrubbery or bushy growth of ornamentals thereon so that same does not interfere with or molest lawful travel on the adjacent sidewalks and traveled portion of the adjacent streets and thoroughfares and so that same, in no case, exceeds twenty-four (24") inches in height.

Sec. 8-108 MUNICIPAL PROPERTY; TREES. No person or persons shall plant any tree or trees on the public right of way unless in full compliance with this section of the municipal code and outlined in Section 8-108.1 and 8-108.2. (Amended by 2139 04/08/2008)

Sec. 8-108.01 RIGHT OF WAY TREE RESTRICTION. Any individual desiring to plant trees on city right of way shall:

1. First apply for a permit from the City Clerk's office, which permit fee will be set and determined from time to time as necessary by the Mayor and City Council, by resolution, and said fees shall be appended to the Municipal Code as part of an appendix titled "Permit, License and Application Fees", and shall be on file at the office of the Municipal Clerk and available for public inspection during regular office hours of the said Municipal Clerk.
2. Sign a recordable agreement, which shall be recorded against the real property adjoining the right of way and owned by the individual(s) owning the property and requesting the permit stating they and/or their assigns shall be responsible for the perpetual care, maintenance and removal of said tree(s).
3. Plant any tree(s) in conformance with Section 6-319.

(Added by Ordinance 2139 04/08/2008)

NOTE: See Resolution No. 2008-13 dated April 8, 2008 for City policy for planting and maintaining trees located on the public right of way within the City of Blair.

Sec. 8-108.02 FAILURE TO APPLY FOR A TREE PLANTING PERMIT. Any tree planted in the public right of way without a tree permit as required by the Municipal Code after the adoption date of this Section shall be deemed to be unlawfully planted and growing and shall, at the discretion of the Governing Body, be deemed to be a nuisance. When any such tree is declared to be a nuisance, the Governing Body shall order, with proper notice, the tree removed at the expense of the owner of the property adjacent to the street right of way upon which the tree has been unlawfully planted. If the property owner fails or neglects to remove or cause to be removed the said tree, the Governing Body 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. 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. Nothing in this Section shall be construed to apply to any existing trees now growing within the street right of way. (Added by Ordinance 2139 04/08/2008)

Sec. 8-109 POLITICAL SIGNS, GENERALLY. Temporary political signs may be placed upon the right of way owned by the City of Blair, Nebraska, in any zoning district, provided that the following terms and conditions are satisfied:

1. Signs shall not exceed ten (10) feet in area;
2. Signs shall be placed:
 - a) not less than fifteen (15) feet from the back of the curb or edge of the pavement if no curb exists, or,
 - b) on the interior side of the sidewalk, whichever location is the greater distance from the street;
3. Signs must be placed at least fifty (50) feet from a corner;

4. Signs shall not be placed within two hundred (200) feet of a polling place;
5. Permission must be obtained from the property owner abutting the City right-of-way prior to installing any signs;
6. Signs shall not be installed more than four (4) weeks in advance of any primary, general or special election and shall be removed within seven (7) days after the election day;
7. The provisions of this section shall apply only to right of way owned by the City and shall not apply to City owned parks, parking lots or other City owned real estate; and
8. Political signs shall be defined as signs in support of or against a candidate or a proposition which is the subject of a general, primary or special election held in the City of Blair, Nebraska.

(A) Political signs placed on City owned right of way that do not conform to the foregoing terms and conditions, or any political signs placed on any City owned parks parking lots or other City owned real estate, shall be removed and disposed of by the City Administrator or by City employees designated by the City Administrator of the City of Blair, Nebraska.

Sec. 8-110 TEMPORARY SIGNS; WHEN AND WHERE AUTHORIZED.

(A) Temporary signs advertising real estate for sale may be placed upon right of way owned by the City of Blair, Nebraska, in any zoning district, provided that the following terms and conditions are satisfied:

1. Signs shall not exceed ten (10) square feet in area;
2. Signs shall be placed:
 - (a) Not less than fifteen (15) feet from the back of the curb or edge of the pavement if no curb exists, or,
 - (b) On the interior side of the sidewalk, whichever location is the greater distance from the street;
3. Signs must be placed at least fifty (50) feet from a corner;
4. Permission must be obtained from the property owner abutting the City right of way prior to installing any signs;
5. Such signs may only be placed on the right of way immediately abutting the specific real estate advertised for sale and may not be placed at any other location; furthermore, such signs shall be removed within three (3) days of the completion of the sale; and,
6. The provisions of this section shall apply only to right of way owned by the City and shall not apply to City owned parks, parking lots or other City owned real estate.

(B) Temporary commercial signs advertising business or commercial matters, other than temporary signs advertising real estate for sale as described above, may be placed upon right of way owned by the City of Blair, Nebraska, in any commercial zoning district, provided the following terms and conditions are satisfied:

1. Commercial signs shall only be allowable upon written permit issued by the office of the City Administrator of the City of Blair, Nebraska.
2. A request for a commercial sign permit is initiated by filing an application with the City Administrator upon forms prescribed for the purpose. The application shall be accompanied by drawings or a site plan or other such plans and data showing the description data and other materials constituting a record essential to an understanding

- of the proposed commercial sign.
3. The applicant shall submit with the application a nonrefundable application fee. Said fee shall be set and determined from time to time as deemed necessary by the Mayor and City council by resolution and shall be appended to the Municipal Code as part of an appendix for permit license and application fees.
 4. In considering whether or not to grant the application, the office of the City Administrator shall consider pedestrian safety and convenience, traffic and pedestrian flow and control, glare, and compatibility and harmony with properties in the district.
 5. The length of time a commercial sign may be placed upon the right of way owned by the City of Blair, Nebraska, shall be determined by the office of the City Administrator but, in no event, shall a commercial sign be allowed to be placed on any property for more than ten (10) days during any calendar year.

(C) Signs advertising real estate for sale placed on City-owned right of way that do not conform to the foregoing terms and conditions, any signs placed on City owned parks, parking lots or other City owned real estate, and any commercial signs in violation of section 8-110(b), hereinabove, shall be removed and disposed of by the City Administrator or by City employees designated by the City Administrator of the City of Blair, Nebraska.

Sec. 8-111 TEMPORARY YARD/GARAGE SALE SIGNS.

(A) Temporary signs advertising yard or garage sales may be placed upon right of way owned by the City of Blair, Nebraska, in any residential zoning district, provided that the following terms and conditions are satisfied:

1. Signs shall not exceed ten (10) square feet in area;
2. Signs shall be placed:
 - (a) Not less than fifteen (15) feet from the back of the curb or edge of the pavement if no curb exists, or,
 - (b) On the interior side of the sidewalk, whichever location is the greater distance from the street;
3. Signs must be placed at least fifty (50) feet from a corner;
4. Such signs may only be placed on the right of way immediately abutting the specific real estate on which the yard or garage sale is taking place and may not be placed at any other location; such signs shall be removed within twenty-four (24) hours of the completion of the sale; and,
5. The provisions of this section shall apply only to right of way owned by the City and shall not apply to City owned parks, parking lots or other City owned real estate.

(B) Yard or garage sale signs placed on City owned right of way that do not conform to the foregoing terms and conditions or any such signs placed on any City owned parks, parking lots or other City owned real estate shall be removed and disposed of by the City Administrator or by City employees designated by the City Administrator of the City of Blair, Nebraska.

Sec. 8-112 MUNICIPAL PROPERTY; PUBLIC WORKS INVOLVING ARCHITECTURE OR ENGINEERING; REQUIREMENTS.

- (1) Except as provided in subsection (2) of this section, the Municipality shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications, and estimates have been prepared and the construction has been observed by an architect, a professional engineer, or a person under the direct supervision of an architect, professional engineer, or those under the direct supervision of an architect or professional engineer.
- (2) Subsection (1) of this section shall not apply to the following activities:
 - (a) Any public works project with contemplated expenditures for the completed project that do not exceed forty thousand dollars (\$40,000);
 - (b) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;
 - (c) Performance of professional services for itself if the Municipality appoints a municipal engineer or employs a full-time person licensed under the Engineers and Architects Regulation Act who is in responsible charge of architectural or engineering work;
 - (d) The practice of any other certified trade or legally recognized profession;
 - (e) Earthmoving and related work associated with soil and water conservation practices performed on any land owned by the Municipality that is not subject to a permit from the Department of Water Resources;
 - (f) The work of employees and agents of the Municipality performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance;
 - (g) Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant;
 - (h) The construction of municipal water wells as defined in section 46-1212 RS Neb., the installation of pumps and pumping equipment into municipal water wells, and the decommissioning of municipal water wells, unless such construction, installation, or decommissioning is required by the Municipality to be designed or supervised by an engineer or unless legal requirements are imposed upon the Municipality as a part of a public water supply; and
 - (i) Any other activities described in sections 81-3449 to 81-3453 RS Neb. (Neb. Rev. Stat. §81-3423, 81-3445, 81-3449 through 81-3453)

(END OF SECTION)