

CHAPTER XIII. STREETS AND SIDEWALKS

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ARTICLE 1. SIDEWALKS

- 13-101. PERMIT REQUIRED. It shall be unlawful to construct, reconstruct or repair any sidewalk within the city until the plans first have been approved by the governing body and a permit issued for such work by the city clerk. (Code 1988)
- 13-102. SIDEWALK GRADE. Hereafter all sidewalks constructed or reconstructed in the city shall be constructed on the established grade. When the governing body shall order a sidewalk constructed as hereafter provided, the city shall pay the cost of bringing the street to grade for the sidewalk. Where no grade has been established, the owner of abutting property may construct a sidewalk on the natural grade. If the grade has been established, the city clerk shall furnish the property owner with the official grade by reference to a stated distance above or below the street grade. (K.S.A. 12-1801, 12-1807; Code 1981, 16-101; Code 1988)
- 13-103. SAME; SPECIFICATIONS. Hereafter all sidewalks shall be of single-course construction and shall be constructed and laid in accordance with standard plans and specifications hereby adopted by reference and filed in the office of the city clerk as provided by K.S.A. 12-1802. It shall be unlawful for any person, firm or corporation to construct, reconstruct or repair any sidewalk except as provided by this article. (Code 1981, 16-102; Code 1988)
- 13-104. SAME; PETITION. When a petition signed by no fewer than 10 citizens owning real estate in the city requesting construction of a sidewalk is filed with the city clerk, the governing body may in its discretion, by a resolution, order such sidewalk constructed as herein provided. (K.S.A. 12-1803; Code 1981, 16-103; Code 1988)
- 13-105. SAME; CONDEMNATION, RECONSTRUCTION. When any sidewalk, in the opinion of the governing body, becomes inadequate or unsafe for travel thereon, the governing body may adopt a resolution condemning such walk and providing for the construction of a new walk in the place of the walk condemned. (K.S.A. 12-1804; Code 1981, 16-104; Code 1988)
- 13-106. NOTICE; PUBLICATION. The resolution providing for the construction or reconstruction of a sidewalk, as the case may be, shall give the owner of the abutting property not less than 30 days nor more than 60 days after its publication one time in the official city paper in which to construct or cause to be constructed or reconstructed the sidewalk at his or her own expense. If the sidewalk is not constructed by the property owner within the time specified, the governing body

shall cause the work to be done by contract. (K.S.A. 12-1805; Code 1981, 16-105; Code 1988)

13-107. **RIGHT OF ABUTTING OWNER.** Nothing in this article shall be construed to prohibit the owner of property abutting on a street, who desires to construct or reconstruct a sidewalk at his or her own expense and in accordance with official plans and specifications for the purpose and which meet such other requirements as would have to be met if the sidewalk were constructed or reconstructed by the city, to construct or reconstruct a sidewalk without any petition or a condemning resolution by the governing body. If such property owner desires the sidewalk to be constructed and reconstructed by the city and an assessment levied as provided by law in other cases, he or she shall file a request with the governing body. The governing body, in its discretion, may provide for the construction or reconstruction of the sidewalk requested in the same manner as in other cases where citizens or taxpayers petition the governing body. (K.S.A. 12-1806; Code 1981, 16-106; Code 1988)

13-108. **REPAIRS BY OWNER OR CITY.** It shall be the duty of the owner of the abutting property to keep the sidewalk in repair, but the city may, after giving five days' notice to the owner or his or her agent, if known, of the necessity for making repairs or without notice if the lot or piece of land is unoccupied, make all necessary repairs at any time. The same shall be done and the cost thereof assessed against the lot or piece of land abutting on the sidewalk so repaired as may be provided by law. (K.S.A. 12-1808; Code 1981, 16-107; Code 1988)

13-109. **PERFORMANCE, STATUTORY BOND.** In any case where the reconstruction or construction of a sidewalk is required to be done by contract as provided in section 13-106 hereof, the governing body may require the contractor to give a bond for the faithful performance of the contract and for the construction of the sidewalk in accordance with the plans and specifications, ordinances of the city or laws of Kansas, and for all contracts exceeding \$10,000 entered into by the city for any such purpose a statutory lien bond required by K.S.A. 60-1111 shall be furnished. (Code 1981, 16-108; Code 1988)

13-110. **OBSTRUCTING SIDEWALKS.** It shall be unlawful for any person to build or construct any step or other obstruction, whether temporary or permanent, or to store, leave, or allow to be left any implements, tools, merchandise, goods, containers, display or showcases, on any sidewalk or other public ways in the city or to obstruct the same longer than is necessary for loading or unloading any such article or object. Benches, portable signs, decorative plant receptacles, or other items, when authorized by the city clerk in writing, can be allowed if it is determined they will not impede or inconvenience the public. (Ord. 303; Code 2014)

13-111. **SAME; EXCEPTION.** The governing body may authorize the granting of temporary permits in connection with a building or moving permit for limited times only to the owner of property abutting on any sidewalk to use or encumber such sidewalk or public way of the city during the construction of any building or improvement thereon. No permit shall be issued for such purpose until plans for warning and safeguarding the public during such use of sidewalks shall have been submitted by the owner or his or her contractor and approved by the governing body. (Code 1988)

- 13-112. SIDEWALK OBSTRUCTION ON SURFACE. No person owning property along or adjacent to a sidewalk shall permit any plank, brick, stone or segment of the sidewalk to be raised above the established level of the sidewalk more than one-half inch, in any manner which might catch the foot of a pedestrian, or to permit any holes or depressions to occur in the sidewalk in which a pedestrian might step or catch his or her foot in a manner liable to cause injury.
(Code 1981, 16-203)

ARTICLE 2. STREETS

- 13-201. STREET COMMISSIONER; DUTIES. It shall be the duty of the street commissioner to have supervision of the maintenance and repair of all streets, alleys and public thoroughfares of the city and such other duties as prescribed by ordinance or as directed by the council. (Code 1981, 2-305)
- 13-202. EXCAVATION PERMIT. No person, other than authorized city employees, shall dig or excavate any hole, ditch, trench or tunnel in or under any street, alley, sidewalk, park or other public property or public easement through private property without first having secured a permit for such excavation. Application shall be made to the city clerk. (Code 1988)
- 13-203. SAME; BOND. (a) No permit authorized in this article shall be issued until the applicant has given to the city a good and sufficient bond in the sum of \$10,000 conditioned that the applicant will faithfully comply with all the terms and conditions of this article, and will indemnify and hold the city harmless against all costs, expenses, damages and injuries by persons or by the city sustained by reason of the carelessness or negligence of the permit holder. No bond for this purpose shall run for longer than two years without being renewed. The bond shall remain in full force and effect as to each excavation for two years after the same has been made or completed.
 (b) Any utility operating under a franchise or a contractor under contract with the city for municipal improvement shall not be required to give bond as provided in subsection (a).
 (c) Each bond given under this section shall be approved by the city attorney and filed with the city clerk.
(Code 1988)
- 13-204. SAME; FILED. If the application is approved by the city, the city clerk shall issue a permit upon payment of a fee of \$5. Each permit issued under the provisions of this section shall cover only one specified excavation. (Code 1988)
- 13-205. SAME; BARRICADES. Any person to whom an excavation permit is issued shall enclose all excavations which they make with sufficient barricades and danger signs at all times, and shall maintain sufficient warning lights or flares at nighttime. The holder of an excavation permit shall take all necessary precautions to guard the public against all accidents from the beginning of the work to the completion of the same. (Code 1981, 16-201; Code 1988)

- 13-206. SAME; UNLAWFUL ACTS. It shall be unlawful for any person, except those having authority from the city or any officer thereof to throw down, interfere with or remove any barriers, barricades, or lights placed in any street to guard and warn the traveling public of any construction work thereon or adjacent thereto. (Code 1988)
- 13-207. CUTTING CURBS; PAVEMENT. (a) No person shall cut any curb, gutter, pavement, blacktop, sidewalk or excavate any street, alley or other public grounds of the city for any purpose without first obtaining a permit authorizing the same from the city clerk.
(b) Once the work for which the excavation was made has been completed the city shall restore the pavement, blacktop, sidewalk or other surfacing at the expense of the person from whom the excavation was made.
(c) In lieu of the city replacing pavement, it may elect to authorize utility companies or contractors to resurface streets or sidewalks with like materials, subject to approval of the street superintendent. (Code 1988)
- 13-208. ALTERING DRAINAGE. No person shall change or alter any gutter, storm sewer, drain or drainage structure which has been constructed, or is being lawfully maintained or controlled by the city unless such change or alteration has been authorized or directed by the governing body. (Code 1988)
- 13-209. UNFINISHED PAVEMENT. No person shall walk upon, drive or ride over or across any pavement, sidewalk or incomplete grading which has not been opened for traffic. (Code 1988)
- 13-210. USING STREETS. (a) No person shall occupy any portion of any street, alley or sidewalk for the purpose of temporarily storing building materials without first obtaining a permit for such temporary use from the governing body.
(b) No person may use any portion of any sidewalk or street right-of-way for the purpose of displaying or offering for sale wares, goods, merchandise or other items. Nothing in this article, however, shall be construed as prohibiting the city governing body from temporarily waiving the prohibition of this subsection in connection with community promotions or community-wide celebrations when such waiver is considered to be in the best interest of the city. (Code 1988)
- 13-211. DANGEROUS OBJECTS IN. It shall be unlawful for any person to place, throw or cause to be placed or thrown in or on any street, alley, sidewalk or other public grounds of the city, any glass, tacks, nails, bottles, wire or other dangerous objects that might wound any person or animal, or cut or puncture any pneumatic tire while passing over the same. (Code 1988)
- 13-212. PETROLEUM PRODUCTS IN STREETS. It shall be unlawful for any person, firm or corporation to deposit or throw any waste oil, fuel oil, kerosene, gasoline or other products of petroleum or any acids into or upon any street or public grounds of the city, or willfully to permit the same to be spilled, dripped or otherwise to come into contact with the surface of any street, alley, or sidewalk within the city. (Code 1988)

- 13-213. DISCHARGING WATER ON STREETS. It shall be unlawful for any person, firm or corporation to throw or discharge water into any ditch, street, avenue or alley in the city or to cause any water to stand or form pools or to flow in a stream thereon. This section shall not apply to persons cleaning or flushing such streets, avenues or alleys under the authority of the governing body, nor to members of the fire department. (Code 1988)
- 13-214. BURNING IN STREETS. It shall be unlawful for any person to make or cause to be made, any fire upon any of the paved streets, alleys, or street intersections within the city. (Code 1981, 16-208; Code 1988)
- 13-215. THROWING IN STREETS. It shall be unlawful to throw or bat any ball, stone, or other hard substance into, on or across any street or alley or at or against any building or vehicle. (Code 1981, 16-207; Code 1988)
- 13-216. HAULING LOOSE MATERIAL. It shall be unlawful to haul over the streets or alleys of this city any loose material of any kind except in a vehicle so constructed or maintained as to prevent the splashing or spilling of any of the substances therein contained upon the streets or alleys. (Code 1988)
- 13-217. SIGNS. No person, either as principal, agent or employee, shall construct, have constructed, put in place or maintain in place, any signs or other structures, for advertising purposes across or upon any streets or sidewalks, or affixed to buildings or other structures abutting on such streets or sidewalks unless the same is seven feet or more above the sidewalk or street and does not extend out more than six feet from the wall of the abutting building or structure. However, no sign larger than three feet by three feet in size shall be constructed without first obtaining permission of the governing body and furnishing a bond with good and sufficient sureties conditioned to save the city harmless from any and all damages to persons or property should such sign fall, be blown down or otherwise dislocated by any means. (Code 1981, 16-202)
- 13-218. ANIMALS ON SIDEWALKS AND STREETS. No person, firm or corporation shall drive, ride or lead any horse, mule, sheep, cattle or other livestock across any sidewalk in the city or any street, other than state highways, in the city. (Code 1981, 16-204)
- 13-219. RAILROADS; MOVING TRAINS. It shall be unlawful for any railroad company, or any of its employees, to run any train, engine or cars through, along or across any street, alley or public place in the city at a greater rate of speed than 30 miles per hour or at a rate of speed which in any way endangers life or property. (K.S.A. 15-438; Code 1981, 16-205)
- 13-220. RAILROADS; BLOCK CROSSINGS. Each and every railroad company or any corporation leasing or otherwise operating a railroad in the city is hereby prohibited from allowing its trains, engines or cars to stand upon any crossing or street within the corporate limits of the city to exceed 10 minutes at any one time without leaving an opening in the traveled portion of the public road, street or crossing of at least 30 feet in width. (K.S.A. 66-273; Code 1981, 16-206)

ARTICLE 3. TREES, HEDGES AND SHRUBS

13-301. TREE BOARD; APPOINTMENT; TERMS; OFFICERS; VACANCIES; COMPENSATION; DUTIES. (a) There is hereby created a tree board of the city which shall consist of all members of the city council, the city clerk and not less than two nor more than four members at-large, as determined by the council appointed by the mayor with the approval of the council from among residents of the city. Members of the tree board shall serve in such capacity without compensation. Councilmembers and the city clerk shall serve as members of the tree board during their tenure as such officers of the city. Appointees to the tree board shall serve at the pleasure of the city council, and vacancies among the appointees shall be filled in the same manner as original appointments are made.

(b) A simple majority of the board shall constitute a quorum for the conduct of business, and a complete and accurate record shall be made and kept of each meeting of the board.

(c) The board shall study, investigate, and develop and/or update annually a written plan for the care, replacement, maintenance and removal and disposition of trees and shrubs in parks, along streets and in other public areas of the city, and shall present the same to the city council for acceptance and approval. Upon acceptance and approval by the city council the written plan shall constitute the official comprehensive city tree plan for the city and the plan shall then be administered by the board.

(d) The board shall make recommendations to the city council regarding policy and rules and regulations for the planting, pruning and removal of street and park trees in the city, including a listing of acceptable species of trees that may be located in street rights-of-way, easements, alleys and parks of the city. Upon the acceptance of such recommendations by the city council the same shall become and constitute official policy, rules and regulations of the city.

(e) When requested by the city council the board shall consider, investigate, and make findings with reference to any particular matter or question relating to street and/or park trees in the city and report the same to the city council with the board recommendation, if appropriate.

(f) The tree board shall have the power at any time to engage in the planting, cultivating, mulching, pruning, spraying and otherwise maintaining trees or removing trees from any streets, alleys, public ways, public parks or other areas owned by the city to which the public shall have free access, and it shall be unlawful for any person to interfere in any way with such work of the tree board, provided, however, that the owner of real property abutting the parking on which a tree to be removed is located, shall be notified before such removal and any opposition to such removal expressed by the owner resolved prior to the removal of the tree, if possible. If such opposition cannot be resolved, the matter shall be presented to the governing body of the city for final resolution of the issue.

(Ord. 205, Sec. 1)

13-302. DEFINITIONS. The following words when used in this article section, for the purpose of this article, have the meanings respectively ascribed to them in this section:

(a) Curbline shall mean that line on either side of an unpaved street, avenue or public way along which a curb would be constructed if such street were improved with a cement or asphalt curb and gutter.

(b) Large Tree shall mean a tree attaining a height of 40 feet or more.

(c) Medium Tree shall mean a tree attaining a height of 20 feet to 40 feet.

(d) Park Tree shall mean a tree, shrub, bush and all other woody vegetation in public parks of the city having individual names and all other areas owned by the city to which the public shall have free access or use.

(e) Small Tree shall mean a tree attaining a normal maximum height of 20 feet.

(f) Street Tree shall mean a tree, shrub, bush and all other woody vegetation on land lying between the property lines on either side of all streets, avenues or public ways within the city.

(g) Topping shall mean the severe cutting back of limbs to stubs larger than three inches in diameter within the crown of the tree to such a degree that the normal canopy of the tree is removed and the tree disfigured.

(Ord. 195, Sec. 2)

13-303.

PLANTING TREES. (a) The city shall adopt and maintain a list of trees that are recommended for planting in public areas of the city to be known as the Preferred Trees Species List which shall be available to residents of the city, upon request, to aid them in the selection of trees for planting in the city. The list shall be updated periodically to reflect new development of species that will affect the population of the community forest.

(b) No trees shall be planted closer to the curb or curblines than as follows:

Small and medium trees 4 feet;

Large trees 6 feet.

No trees shall be planted closer to the sidewalk than as follows:

Small trees 2 feet;

Medium trees 3 feet;

Large trees 4 feet.

Provided, however, that the tree board may waive any of the foregoing distance requirements when it is deemed appropriate.

(c) Only small trees as defined in this article may be planted under or within 15 feet of any overhead utility wire and no trees of any kind may be planted within three linear feet of any underground waterline, sewer line or other underground utility service line, nor shall any street tree be planted within 45 feet of any street intersection or within 10 feet of any fireplug.

(d) Notwithstanding any language in this article that may be construed or interpreted to the contrary, no tree may be planted within 25 feet of centerline of any street. (Ord. 195, Sec. 3)

13-304.

MAINTENANCE, TREATMENT AND REMOVAL OF TREES. It shall be the duty of all owners of real property abutting upon streets, alleys and public ways in the city to properly maintain trees in the abutting parking and to keep the trees in the parking trimmed in such a manner that the lowest branches of the trees shall be at least eight feet above the surface of any sidewalk or driveway and at least 12 feet above the surface of any street, alley or public way over which the branches of the tree hang. It shall also be the duty of the owners of real property abutting upon streets, alleys and public ways in the city to either treat or remove diseased trees in the parking. All dead trees in the parkings in the city are hereby declared to be a nuisance and the trees and stumps shall be removed below the surface of surrounding ground at the expense of the owner of the property abutting the parking. No tree located on public property shall be topped except in instances where trees have been severely damaged by storms or other causes or where trees create an obstruction to overhead utility lines to the extent that other pruning practices are impractical. (Ord. 195, Sec. 4)

13-305. FAILURE TO MAINTAIN, TREAT OR REMOVE TREES; NOTICE; ASSESSMENT OF COSTS. Notice shall be given by the city clerk to owners of real property abutting upon streets, alleys and public ways in the city who shall fail to maintain and keep trimmed in accordance with the provisions of this article trees in the parking abutting the owner's real property that trees in such parking have not been maintained or trimmed in accordance with the provisions of this article. Such notice shall include a listing in specific terms of those things that the property owner must do to be in compliance with this article together with a statement that the failure of the property owner to complete the work necessary to comply with this article within 10 days after the notice is served on the owner may result in the city performing such work and assessing the cost thereof against the owner's property abutting such parking.

(b) The notice shall be served on the owner of the real property abutting the parking upon which the subject trees are located and upon the occupant of the abutting real property by delivering a copy of the notice to the owner and occupant in person, or by leaving a copy of the notice with some responsible person at their usual place of residence. Property owners who are nonresidents of the city shall be served notice by mailing a copy of the notice to the owner at his or her last known address and by posting a copy of such notice in a conspicuous place upon the real property abutting the parking on which the subject trees are located.

(c) If the maintenance or trimming of trees is not completed as set forth in the notice within 10 days after service of such notice as hereinabove provided, the city may do the work necessary to bring such trees into compliance with this article and assess the costs of such work against the real property abutting the parking on which such trees are located as a special assessment. The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the aforesaid costs, and the county clerk shall extend the same on the tax roll of the county against the abutting real property, and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid.

(Ord. 195, Sec. 5)

13-306. TREE TRIMMING ALONG UTILITY LINES. No person, firm, association or corporation shall cut or trim trees around, along or under any overhead pole line of an electric utility, telephone company or cable television company without first obtaining a written permit from the governing body of the city. If the governing body of the city determines that the tree cutting or trimming proposed to be done might cause injury to persons doing the work or to any other person or cause damage to the overhead pole line or property of any other person, the city may require the applicant for the permit to provide public liability insurance covering personal injury and property damage resulting from the tree work proposed to be done with the city being a named insured in such amount as the governing body, in its sole discretion, shall deem appropriate before such permit is issued.

(Ord. 195, Sec. 6)

ARTICLE 4. SNOW AND ICE

- 13-401. SNOW AND ICE TO BE REMOVED. (a) It shall be unlawful for the owner and/or the occupant of any lots abutting upon any sidewalks to fail to cause to be removed from such sidewalks all snow and ice within 24 hours from the time that the snow fall or ice storm ceases.
(b) It shall be unlawful for any person to place snow removed from private property upon any public street, alley or sidewalk.
(Code 1981, 16-301; Code 1988)
- 13-402. SAME: EXCEPTION; ALTERNATE REMEDY. Where there shall be ice or compacted snow on any such sidewalk of such a character as to make it practically impossible to remove the same, the sprinkling of ashes, sand or other noncorrosive chemicals on the accumulation of ice or snow in such a manner as to make such sidewalk reasonably safe for pedestrian travel shall be deemed a sufficient compliance with the provisions of this article until the ice or snow can be removed. (Code 1988)
- 13-403. SAME; PENALTY. That any person violating the provisions of section 13-401 shall, upon conviction, be fined \$25. (Code 1981, 16-302; Code 1988)