

CHAPTER XIII. STREETS AND SIDEWALKS

- Article 1. Sidewalks
- Article 2. Streets and Alleys
- Article 3. Trees and Shrubs
- Article 4. Snow and Ice

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 1984)

13-102.SIDEWALK GRADE. Hereafter all sidewalks constructed or reconstructed in the city shall be constructed on the established grade. When the mayor and council 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 street superintendent 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 1984)

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 1984)

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 1984)

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 1984)

13-106. Reserved for future use.

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 or 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 1984)

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 1984)

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, 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 of Kansas and for all contract exceeding \$1,000 entered into by the city for any such purpose a statutory lien bond required by K.S.A. 60-141 shall be furnished. (Code 1984)

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, benches, display or show cases, on any sidewalks 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.

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 1984)

ARTICLE 2. STREETS AND ALLEYS

13-201.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 1984)

13-202.SAME; BOND. (a) The city may require a bond 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 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 1984)

13-203.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 1984)

13-204.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 1984)

13-205.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 he 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 1984)

13-206.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 1984)

13-207.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 1984)

13-208.UNFINISHED PAVEMENT. No persons shall walk upon, drive or ride over or across any pavement, sidewalk or incomplete grading which has not been opened for traffic. (Code 1984)

13-209.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 governing body from 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 1984)

13-210. 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 1984)

13-211.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 1984)

13-212.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 streets, avenues or alleys under the authority of the governing body, nor to members of the fire department. (Code 1984)

13-213.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 1984)

- 13-214. **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 1984)
- 13-215. **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 having a tight box so constructed as to prevent the splashing or spilling of any of the substances therein contained upon the streets or alleys. (Code 1984)
- 13-216. **OBSTRUCTING RAIL CROSSING.** It shall be unlawful for any railroad company or any person operating a railroad in the city, to allow its trains, engines or cars to stand upon any crossing or street in excess of 10 minutes at any one time without leaving an opening in the traveled portion of the street or crossing of at least 30 feet wide. (Code 1984)
- 13-217. **TRAIN CREW; WARNING.** It shall be unlawful for the conductor or engineer of any train, engine or moving cars not preceded by an engine to cross any street, alley or public place without causing a person to be stationed upon the end of the first car or at the crossing to warn of the approaching cars. (Code 1984)
- 13-218. **ALLEYS.** It shall be the duty of the owner of property abutting any alleys to keep the alley in repair and maintained free of any violations of City codes. It shall be unlawful for any person to place, build, or construct any improvement or obstruction on any public alley, whether temporary or permanent, or to excavate in said alley without a validly issued permit from the City for excavation in the City right-of-way. Notwithstanding the foregoing mentioned maintenance responsibility of landowners abutting public alleys, the City shall maintain the following public alleys:
- (a) Alley located half-way between E. Morgan Street and E. McCarty Street from First Street to E. Third Street;
 - (b) Alley located half-way between E. Hulett Street and E. Nelson Street from E. Third Street to E. Fifth Street;
 - (c) Alley located half-way between E. Nelson Street and E. Martin Street from E. Second Street to E. Fourth Street;
 - (d) Alley located half-way between E. Martin Street and E. McDonald from First Street to E. Third Street. (Ord. 857, 2009) (Previous Code 13.218 – Removal of Parked Vehicles after Snowfalls, Ord. 553, 1985)

ARTICLE 3. TREES AND SHRUBS

- 13-301. **PUBLIC TREE CARE.** The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure safety when servicing city utilities or to preserve the symmetry and beauty of public grounds.

The city may removed or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest. (Code 1984)

13-302.DISEASED TREEES; DETERMINATION. Whenever any competent city, state or federal authority shall file with the governing body a statement in writing based upon a laboratory test or other supporting evidence that trees or tree materials or shrubs located upon private property within the city are infected or infested with or harbor any tree or plant disease or insect or larvae, the uncontrolled presence of which may constitute a hazard to or result in the damage or extinction or other trees or shrubs in the community, describing the same and where located, the governing body shall direct the city clerk to forthwith issue notice requiring the owner or agent of the owner of the premises to treat or to remove any such designated tree, tree material or shrub within a time specified in the notice. (Code 1984)

13-303.SAME; NOTICE SERVED. Notice shall be served by a police officer by delivering a copy thereof to the owner, and the person in possession of such property, or if the same be unoccupied or the owner a nonresident of the city, then the city clerk shall notify the owner by mailing a notice by certified mail to his or her last known address. (Code 1984)

13-304.SAME; FAILURE OF OWNER; DUTY OF CITY. If the owner or agent shall fail to comply with the requirements of the notice within the time specified in the notice, then the chief of police shall proceed to have the designated tree, tree material or shrub treated or removed and report the cost thereof to the city clerk. In lieu of the city employees performing any such work, the governing body may contract with any competent person, company or corporation for the performance of such work. (Code 1984)

13-305.SAME; PREVENT SPREAD OF DISEASE. No tree, tree materials or shrubs as mentioned herein which have been cut down, either by the property owner or by the city shall be permitted to remain on the premises, but shall immediately be removed and burned or immediately burned upon the premises. If safe to do so, and in accordance with section 7-204, so as to prevent the spread of the tree disease. (Code 1984)

13-306.DEAD AND DANGEROUS TREES ON PRIVATE PROPERTY.

(a) Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 14 feet above the surface of the street or right-of-way. The owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it

interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign.

(b) The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property. The city will notify in writing the owners of such trees.

Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions the city shall have the authority to remove the trees and charge the cost of removal on the owner's property tax notice. (Code 1984)

13-307.TREES ON PUBLIC PROPERTY; COST BORNE BY THE CITY. The city shall have the authority to treat or to remove any tree as defined in section 13-301 of the article, or to remove any dead tree as mentioned herein, which is located within the limits of any public right-of-way within the city. The adjacent property owners shall not be responsible for the cost of treatment or removal of any such trees within the public right-of-way and this expense shall be borne by the city at large. (Code 1984)

13-308.COSTS ON TAX ROLLS. The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the unpaid costs for treatment or removal performed under the authority of sections 13-304 or 13-306 and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The cost of such work shall be paid from the general fund or other proper fund of the city, and such fund shall be reimbursed when payments therefore are received or when such assessments are collected and received by the city. (Code 1984)

13-309.INJURING TREES AND SHRUBS. No person shall willfully break, cut, take away, destroy, injure, mutilate, or attempt to willfully break, cut, take away, destroy, injure or mutilate any tree, shrub, vine, flower or landscaping standing, growing, or being upon the premises in the possession of another, or growing on any public ground, street, sidewalk, promenade or park in the city. (Code 1984)

13-310.FIRE HYDRANTS, PLANTINGS ADJACENT TO. No person shall plant or cause to be planted nor allow to grow upon property owned by him or her any shrubs, trees, or planting of any kind within 10 feet of any fire hydrant in the city, in order that every fire hydrant shall be in full view day or night, to fire apparatus approaching from any direction. (Code 1984)

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 reasonable measures to remove all snow and ice from such sidewalks within 48 hours from the time that the snowfall or ice storm ceases. In the event there are extenuating circumstances prohibiting such removal, it is the burden of the owner and/or the

occupant to present these circumstances to the City Code Enforcement Officer within 5 days of the owner and/or occupant receiving notice of a violation of this Article, and thereafter the City Code Enforcement Officer may exercise discretion to withdraw the notice or citation.

(b) It shall be unlawful for any person to place snow removed from private property upon any public street, alley or sidewalk. (Ord. No. 984, 2014)

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 1995)

13-403.SAME; PENALTY. That any person violating the provisions of section 13-401 shall, upon conviction, be fined \$25. (Code 1995)

13-404.REMOVAL MAY BE MADE BY CITY. If any owner or occupant of any lot or lots shall refuse or neglect to clean or remove from the sidewalk abutting the lot or lots all snow and ice within the time specified, the city may cause such snow and ice to be removed from sidewalks and the cost thereof shall be assessed against such abutting lot or lots, and the city clerk shall certify the same to the county clerk for collection as provided by law. (Code 1995)

13-405.COSTS ON TAX ROLLS. The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the unpaid costs for removal of snow or ice performed under the authority of section 13-404 and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The cost of such work shall be paid from the general fund or other proper fund of the city, and such fund shall be reimbursed when payments therefore are received or when such assessments are collected and received by the city. (Code 1995)

13-406.REMOVAL OF PARKED VEHICLES AFTER SNOWFALLS.

(a) All persons having vehicles parked on the streets of the city shall remove the same therefrom within two (2) hours after any snowfall which shall leave a covering of two (2) inches or more, the covering to be measured and determined by the street or maintenance department of the city.

(b) Confirmation of such determination by the street or maintenance department may be obtained by any resident by contacting the city clerk's office or police department, who shall have previously been advised of the applicability of this section by the city street or maintenance department.

(c) All vehicles parked in the street two hours after such snowfall, and obstructing snow removal operations of the city, shall be towed off the street. All towing charges shall be paid by the owner of any vehicle so removed from

the street. (Ord. 553, 1995) (Previous Code 13.218 – Removal of Parked Vehicles after Snowfalls, Ord. 553, 1985)