

CHAPTER XIII. STREETS AND SIDEWALKS

- Article 1. Sidewalks
- Article 2. Streets
- 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 1993)
- 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 1969, 9-201; Code 1993)
- 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 1969, 9-201; Code 1993)
- 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 1993)
- 13-105. **SAME; CONDEMNATION, RECONSTRUCTION.** When any sidewalk, in the opinion of the governing body, become 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 1969, 9-201; Code 1993)

- 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 1993)
- 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 1993)
- 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 1969, 9-202; Code 1993)
- 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 \$1,000 entered into by the city for any such purpose a statutory lien bond required by K.S.A. 60-1111 shall be furnished. (Code 1993)
- 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. (Code 1993)

- 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 1993)

ARTICLE 2. STREETS

- 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 1993)
- 13-202. 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 \$5,000 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 1993)
- 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 1993)
- 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 1969, 9-102; Code 1993)

13-205. 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 1969, 9-103; Code 1993)

13-206. 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 and giving a bond as provided for in section 13-202.

(b) If the governing body disapproves an application, the same shall, together with the bond, be returned to the applicant by the city clerk, who shall note that the application has been disapproved and set forth the reason or reasons for disapproval.

(c) If the governing body shall approve such application, the city clerk shall so notify the applicant. All cutting, breaking, altering or removing of any curb or curbing shall be done as the city street commissioner shall direct. No curb cut shall be made without removal of a complete section and the replacement thereof with new construction. The street commissioner shall give final approval if the work has been performed according to the terms of this article. All such work shall be completed, and final approval obtained, within a period of not to exceed 60 days from the date of approval of the application by the governing body.

(d) If it shall be necessary in the cutting, breaking, altering or removing of any curb, guttering pavement, blacktop, sidewalk or other public grounds of the city for which the approval has been obtained, that any utility line, wire, cable, pipe, conduit, meter, meter box or other utility structure be altered or moved, then the cost thereof shall be paid by the application to the city clerk before final approval may be given by the street commissioner.

(e) In the event the final approval by the street commissioner is not obtained within a period of 60 days from the date of the approval of such application by the governing body as provided for in subsection (c), or if the costs of altering or moving any utility structure, as provided in subsection (d), are not paid within the period of time, such failure shall constitute a violation of this article, and in addition the bond shall forthwith be forfeited to the city to be deposited in the street and alley fund.

(f) 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.

(g) 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.

(h) Upon the completion of all work authorized hereunder, and the receiving of final approval thereof, by the city street commissioner, the city clerk shall forthwith return to such applicant the cash bond herein required. (Code 1969, 9-105, 9-301:307; Code 1993)

13-207. 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 1993)

13-208. 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 1993)

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 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 1993)

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 1993)

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 1993)

- 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 such streets, avenues or alleys under the authority of the governing body, nor to members of the fire department. (Code 1993)
- 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, public way, or street intersections within the city. (Code 1969, 9-106; Code 1993)
- 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 1993)
- 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 so constructed or maintained as to prevent the splashing or spilling of any of the substances therein contained upon the streets or alleys. (Code 1993)

ARTICLE 3. TREES AND SHRUBS

- 13-301. DEFINITIONS. (a) Street Trees are trees, shrubs, bushes, and all other woody vegetation on land lying between the property one on either side of all streets, avenues, or ways within the city.
- (b) Park Trees are trees, shrubs, bushes, and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.
- (c) Community Forest are all street and park trees as a total resource.
- (d) City Forester is the official representative for the city to whom the city has given the responsibility for administration of the community forestry program.
(Ord. 249, Sec. 1)
- 13-302. CITY FORESTER; TERM OF OFFICE. The term of the city forester shall be for two years, with no limit to the number of successive terms. The mayor shall appoint the individual serving in the capacity of city forester. In the event a vacancy shall occur during the term of any city forester, the mayor shall appoint a successor for the duration of the unexpired term. (Ord. 249, Sec. 2)
- 13-303. SAME; COMPENSATION. The city forester shall serve without compensation. (Ord. 249, Sec. 3)

- 13-304. SAME; DUTIES AND RESPONSIBILITIES. (a) The city will be responsible for the enforcement of the tree ordinance, and the city forester will be responsible for the supervision of, and compliance with, the community forestry program. The city forester's duties will be to study, investigate, counsel, and develop and administer a written plan for the care, replacement, maintenance, and removal or disposition of trees and shrubs in parks, along streets, and in other public areas. The city forester shall annually update and present this written plan to the city council. Upon the council's acceptance and approval, the written plan shall constitute the official comprehensive city forestry plan for the city. It shall also be the responsibility of the city forester to keep a journal or other acceptable recording method to document relevant activities.
- (b) While the city is responsible for the enforcement of the tree ordinance, the city forester, when requested by the city council, shall consider, investigate, make finding, report, and recommendation upon any special matter or question coming within the scope of his or her work. (Ord. 249, Sec. 4)
- 13-305. STREET TREE SPECIES TO BE PLANTED. The city shall maintain a list of recommended trees for planting in public areas. This list shall be available to residents of the city upon request to aid in the selection of trees for private properties; however, this section does not seek to restrict or disallow a private landowner from planting a tree that is not on the recommended tree list. The list of recommended trees shall be updated periodically to reflect new developments or species that will affect the population of the community forest. (Ord. 249, Sec. 5)
- 13-306. SPACING AND CLEARANCE SPECIFICATIONS FOR TREE PLANTINGS. (a) Street trees may be planted no closer than 30 feet except in special plantings, and no street tree shall be planted closer than 25 feet from any street corner or within 10 feet of any fireplug.
- (b) Street trees may be planted in the tree lawn where there is more than six feet between the edge of the sidewalk and the curb of the street. Street trees shall be planted no closer than three feet from any sidewalk or street.
- (c) Special permission must be obtained from the city when planting street trees within 10 feet of any point of an imaginary line on the ground immediately below any overhead utility wire, or within five lateral feet of any underground water line, sewer line, transmission line, or other utility. For existing trees below utility lines, clearance over streets and walkways shall be at the discretion of the city, but subject to utility company authority. (Ord. 249, Sec. 6)
- 13-307. PUBLIC TREE CARE. (a) The city shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within right-of-way or bounds of all streets, alleys, lanes, squares, and public grounds as may be necessary to insure the public safety or to preserve or enhance the beauty of such public grounds.

(b) The city may remove 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 seriously infected with any injurious insect or disease. (Ord. 249, Sec. 7)

13-308. PERMISSION REQUIRED. No person shall plant a street tree or any other tree in the public right-of-way without proper approval. (Ord. 249, Sec. 8)

13-309. COMPENSATORY PAYMENTS. No person shall remove any desirable, non-diseased public tree without replacing such tree with a tree or trees of equivalent dollar value in the vicinity of the removed tree. The value of the removed tree or trees shall be determined by the city using the International Society of Arboriculture Tree Value Formula publication which addresses species, location, size, and condition of trees. If no suitable location exists in the vicinity of the tree removed, or if the replacement tree is of lesser value, the person causing the tree to be removed shall also make a compensatory payment to the city equal to the difference in value between the tree removed and any replacement tree. Such compensatory payment shall be paid into the tree maintenance fund and used solely for the enhancement of the community forest. (Ord. 249, Sec. 9)

13-310. TREE TOPPING. It shall be unlawful as a normal practice for any person to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. (Ord. 249, Sec. 10)

13-311. DEAD OR DISEASED TREE REMOVAL. (a) The city shall remove or cause to be removed any dead or diseased tree within the city limits. Diseased trees are defined as those trees that may constitute a hazard to life and property, or harbor insects or disease which represent a potential threat to other trees within the city.

(b) The city will notify in writing the owners of such trees. Removal is the responsibility of the owners of such trees and shall be accomplished within 60 days of notification. In the event of failure to remove by the owner, the city shall have the authority to remove such trees and charge the cost of removal on the owners property tax notice. (Ord. 249, Sec. 11)

13-312. REMOVAL OF STUMPS. All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. (Ord. 249, Sec. 12)

13-313. INTERFERENCE WITH THE CITY OR COMMUNITY FORESTRY PROGRAM. It shall be unlawful for any person to prevent, delay, or interfere with the city

or any of its representatives while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any trees within the community forest, as authorized in this article. (Ord. 249, Sec. 13)

13-314. ACCESS. It shall be unlawful for any person to prevent, delay or interfere with access to private property by the city or its representatives in the legal performance of any section of this article. (Ord. 249, Sec. 14)

13-315. ARBORIST LICENSE AND POLICY. It shall be unlawful for any person to engage in the business or occupation of pruning, treating, or removing any street tree or park tree without first consulting with, and gaining the approval of, the city. No license shall be required for any public service or employee doing such work in the pursuit of their public service endeavors. (Ord. 249, Sec. 15)

13-316. REVIEW BY CITY COUNCIL. The city council shall have the right to review the conduct, acts, and decisions of the city forester. Any person may appeal any ruling or order of the city forester to the city council who may hear the matter and make a final decision. (Ord. 249, Sec. 16)

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 12 hours from the time that the snow fall or ice storm ceases. If the snow falls or ice accumulates upon the sidewalks in the nighttime, removal of same must be made within 12 hours after sunrise on the following day.

(b) It shall be unlawful for any person to place snow removed from private property upon any public street, alley or sidewalk.
(Code 1969, 9-203; Code 1993)

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 1993)

13-403. SAME; PENALTY. That any person violating the provisions of section 13-401 shall, upon conviction, be fined \$25. (Code 1993)

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 1969, 9-205; Code 1993)

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 therefor are received or when such assessments are collected and received by the city. (Code 1993)