

CHAPTER XIII. STREETS AND SIDEWALKS

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ARTICLE 1. SIDEWALKS

- 13-101. **PERMIT REQUIRED.** It shall be unlawful to construct or repair any sidewalk within the city until the plans first have been approved by, and a permit issued for such work by the zoning administrator. (Ord. 1135, Sec. 2)
- 13-102. **SIDEWALK GRADE.** Hereafter all sidewalks constructed or reconstructed in the city shall be construed 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 zoning administrator shall furnish the property owner with the official grade by reference to a stated distance above or below the street grade. (Ord. 1135, Sec. 2)
- 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 1964, 16-102; Code 1986)
- 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 1964, 16-103; Code 1986)
- 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 1964, 16-104; Code 1986)
- 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 1964, 16-105; Code 1986)

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 1964, 16-106; Code 1986)

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 1964, 16-107; Code 1986)

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. 60-111 shall be furnished. (Code 1964, 16-108; Code 1986)

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 1964, 16-301; Code 1986)

13-111. **SAME; EXCEPTION.** The zoning administrator 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 zoning administrator. (Ord. 1135, Sec. 2)

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 1964, 16-201; Code 1986)
- 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 1964, 16-202; Code 1986)
- 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 1986)
- 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 1964, 16-204; Code 1986)
- 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 ward the traveling public of any construction work thereon or adjacent thereto. (Code 1964, 16-310; Code 1986)

- 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.
(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 1986, 16-201; Code 1986)
- 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 1986)
- 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 1964, 16-311; Code 1986)
- 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 1964, 16-301:302; Code 1986)
- 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 1986)
- 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 1964, 16-313; Code 1986)
- 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, nor to property owners who are discharging water from basement sump pumps. (Code 1964, 16-309; Code 1986)

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 1964, 16-314; Code 1986)

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 1986)

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 1986)

ARTICLE 3. TREES AND SHRUBS

13-301. DEFINITIONS. Street Trees are trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the city.

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.
(Ord. 914, Sec. 1)

13-302. CREATION AND ESTABLISHMENT OF A CITY TREE BOARD. There is hereby created and established a city tree board for the city which shall consist of five members, citizens and residents of this city, who shall be appointed by the mayor with the approval of the commission. (Ord. 914, Sec. 2)

13-303. SAME; TERM OF OFFICE. The term of the five persons to be appointed by the mayor shall be three years except that the term of two of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term. (Ord. 914, Sec. 3)

13-304. COMPENSATION. Members of the board shall serve without compensation. (Ord. 914, Sec. 4)

13-305. DUTIES AND RESPONSIBILITIES. (a) It shall be the responsibility of the board to study, investigate, council and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting,

replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the city commission and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the city.

(b) The board, when requested by the city commission, shall consider, investigate, make finding and report and recommend upon any special matter or question coming within the scope of its work.
(Ord. 914, Sec. 5)

13-306. OPERATION. The board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. (Ord. 914, Sec. 6)

13-307. STREET TREE SPECIES TO BE PLANTED. The following list constitutes the official street tree species for the city. No species other than those included in this list may be planted as street trees without written permission of the city tree board.

<u>Small Trees</u>	<u>Medium Trees</u>	<u>Large Trees</u>
Crabapple, Flowering (sp.)	Ash, Green	Coffeetree, Kentucky
Goldenraintree	Hackberry	Maple, Silver
Hawthorn (sp.)	Honeylocust (thornless)	Maple, Sugar
Pear, Bradford	Linden or Basswood (sp.)	Oak, Bur
Redbud	Mulberry, Red	Sycamore
Soapberry	(fruitless, male)	Sycamore,
Lilac, Japense Tree	Oak, English	London planetree
Peach, Flowering	Oak, Red	Cottonwood
Plum, Purpleleaf	Pagadatree, Japense	(Cottonless, male)
Serviceberry	Birch, River	
	Persimmon	
	Poplar, White	
	Sassafras	

(Ord. 914, Sec. 7)

13-308. SPACING. The spacing of street trees will be in accordance with the three species size classes listed in section 13-307 and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by a landscape architect. (Ord. 914, Sec. 8)

13-309. DISTANCE FROM CURB AND SIDEWALK. The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in section 13-307, and no trees may be planted closer to any curb or sidewalk than the following: small trees, two feet; medium trees, three feet; and large trees, four feet. (Ord. 914, Sec. 9)

13-310. DISTANCE FROM STREET CORNERS AND FIREPLUGS. No street tree shall be planted closer than 20 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street trees shall be planted closer than 10 feet of any fireplug. (Ord. 914, Sec. 10)

- 13-311. UTILITIES. No street trees other than those species listed as small trees in section 13-307 may be planted under or within 10 lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility. (Ord. 914, Sec. 11)
- 13-312. 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 public safety or to preserve or enhance the symmetry and beauty of such public grounds. The city tree board 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 affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of the trees is in accordance with sections 13-307:311. (Ord. 914, Sec. 12)
- 13-313. TREE TOPPING. It shall be unlawful as a normal practice for any person, firm, or city department 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 so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the city tree board. (Ord. 914, Sec. 13)
- 13-314. PRUNING, CORNER CLEARANCE. 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 eight feet above the surface of the street or sidewalk. The owners shall remove all dead, diseased or dangerous trees, or broke nor 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. (Ord. 914, Sec. 14)
- 13-315. DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY. 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, or harbor insects or disease which constitute a potential threat to other trees within the city. The city tree board will notify in writing the owners of such trees. Removal shall be done by the 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 such trees and charge the cost of removal on the owners property tax notice. (Ord. 914, Sec. 15)

- 13-316. **INTERFERENCE WITH CITY TREE BOARD.** It shall be unlawful for any person to prevent, delay or interfere with the city tree board, or any of its agents or servants, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this article. (Ord. 914, Sec. 16)
- 13-317. **ARBORISTS LICENSE AND BOND.** It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the city without first applying for and procuring a license. The license fee shall be \$10 annually in advance; provided, however, that no license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$100,000 for bodily injury and \$50,000 property damage indemnifying the city or any person injured or damaged as a result of the pursuit of the endeavors herein described. (Ord. 914, Sec. 17)
- 13-318. **REVIEW BY CITY COMMISSION.** The city commission shall have the right to review the conduct, acts and decisions of the city tree board. Any person may appeal from any ruling or order of the city tree board to the city commission who may hear the matter and make the final decision. (Ord. 914, Sec. 18)
- 13-319. **DISPOSAL OF TREE TRIMMINGS.** Any licensee desiring to dispose of tree trimming, stumps, and branches in the city disposal yard must pay a fee of \$250 per calendar year payable January 1st of each year. The licensee must dispose of his or her waste in compliance with the city commission directives. (Ord. 914, Sec. 19)

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 5 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 5 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 1964, 16-601; Code 1986)
- 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 1986)

- 13-403. SAME; PENALTY. That any person violating the provisions of section 13-401 shall, upon conviction, be fined \$25. (Code 1986)
- 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 1964, 16-603; Code 1986)
- 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 1986)

13-401. (AMT) REMOVAL: That any person violating the provisions of this chapter shall be liable to the city for the removal of such snow and ice. (Code 1985)

13-402. (REMOVAL) Whenever snow or ice is piled up on any street or alley, or on any lot or parcel of land, or on any structure, or on any vehicle, or on any other property, the owner or possessor of such lot or parcel of land, or of such structure, or of such vehicle, or of such other property, shall be liable to the city for the removal of such snow and ice. (Code 1985)

13-403. (COSTS ON TAX ROLL) The city clerk shall, at the time of the assessment of taxes, certify the unpaid taxes for the year to the county clerk, and the county clerk shall extend the same on the tax roll of the county against the parcel of ground. The cost of such work shall be paid from the general fund of the city, and such fund shall be reimbursed by the county when such assessments are collected. (Code 1985)