

CHAPTER XIII: STREETS AND SIDEWALKS

Article

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- 2. STREETS**
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ARTICLE 1: SIDEWALKS

Section

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- 13-107 Right of abutting owner
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§ 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 Zoning Administrator.

(1996 Code, § 13-101) (Ord. 1135, passed - -)

§ 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 Zoning Administrator 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) (1996 Code, § 13-102) (Ord. 1135, passed - -)

§ 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.
(1996 Code, § 13-103)

§ 13-104 SAME; PETITION.

When a petition signed by no fewer than ten 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) (1996 Code, § 13-104)

§ 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 sidewalk and providing for the construction of a new sidewalk in the place of the sidewalk condemned.
(K.S.A. 12-1804) (1996 Code, § 13-105)

§ 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) (1996 Code, § 13-106)

§ 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) (1996 Code, § 13-107)

§ 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) (1996 Code, § 13-108)

§ 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 § 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 the state, 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.

(1996 Code, § 13-109)

§ 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.

(1996 Code, § 13-110)

§ 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 governing body.

(1996 Code, § 13-111) (Ord. 1135, passed - -)

ARTICLE 2: STREETS

Section

- 13-201 Excavation permit
- 13-202 Same; bond
- 13-203 Same; filed
- 13-204 Same; barricades
- 13-205 Same; unlawful acts
- 13-206 Cutting curbs; pavement
- 13-207 Altering drainage
- 13-208 Unfinished pavement
- 13-209 Using streets
- 13-210 Dangerous objects in
- 13-211 Petroleum products in streets
- 13-212 Discharging water on streets
- 13-213 Burning in streets
- 13-214 Throwing in streets
- 13-215 Hauling loose material

§ 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.

(1996 Code, § 13-201)

§ 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 division (a) above.

(c) Each bond given under this section shall be approved by the City Attorney and filed with the City Clerk.
(1996 Code, § 13-202)

§ 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.
(1996 Code, § 13-203)

§ 13-204 SAME; BARRICADES.

Any person to whom an excavation permit is issued shall enclose all excavations that he or she 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.
(1996 Code, § 13-204)

§ 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.
(1996 Code, § 13-205)

§ 13-206 CUTTING CURBS; PAVEMENT.

(a) No person shall cut any curb, gutter, pavement, blacktop or 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.
(1996 Code, § 13-206)

§ 13-207 ALTERING DRAINAGE.

No person shall change or alter any gutter, storm sewer, drain or drainage structure that 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.

(1996 Code, § 13-207)

§ 13-208 UNFINISHED PAVEMENT.

No person shall walk upon, drive or ride over or across any pavement, sidewalk or incomplete grading that has not been opened for traffic.

(1996 Code, § 13-208)

§ 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 division (b) in connection with community promotions or community-wide celebrations when such waiver is considered to be in the best interest of the city.

(1996 Code, § 13-209)

§ 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.

(1996 Code, § 13-210)

§ 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.

(1996 Code, § 13-211)

§ 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.
(1996 Code, § 13-212)

§ 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.
(1996 Code, § 13-213)

§ 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.
(1996 Code, § 13-214)

§ 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.
(1996 Code, § 13-215)

ARTICLE 3: TREES AND SHRUBS

Section

- 13-301 Definitions
- 13-302 Creation and establishment of City Tree Board
- 13-303 Same; term of office
- 13-304 Compensation
- 13-305 Duties and responsibilities
- 13-306 Operation
- 13-307 Street tree species to be planted
- 13-308 Spacing
- 13-309 Distance from curb and sidewalk
- 13-310 Distance from street corners and fireplugs
- 13-311 Utilities
- 13-312 Public tree care
- 13-313 Tree topping
- 13-314 Pruning, corner clearance
- 13-315 Dead or diseased tree removal on private property
- 13-316 Interference with City Tree Board
- 13-317 Arborists license and bond
- 13-318 Review by City Commission
- 13-319 Disposal of tree trimmings

§ 13-301 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PARK TREES. 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.

STREET TREES. 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.
(1996 Code, § 13-301) (Ord. 914, passed - -)

§ 13-302 CREATION AND ESTABLISHMENT OF 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.

(1996 Code, § 13-302) (Ord. 914, passed - -)

§ 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.

(1996 Code, § 13-303) (Ord. 914, passed - -)

§ 13-304 COMPENSATION.

Members of the Board shall serve without compensation.

(1996 Code, § 13-304) (Ord. 914, passed - -)

§ 13-305 DUTIES AND RESPONSIBILITIES.

(a) It shall be the responsibility of the Board to study, investigate, counsel 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 its 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.

(1996 Code, § 13-305) (Ord. 914, passed - -)

§ 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.

(1996 Code, § 13-306) (Ord. 914, passed - -)

§ 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.

<i>Small Trees</i>	<i>Medium Trees</i>	<i>Large Trees</i>
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 (fruitless, male)	Sycamore
Soapberry	Oak, English	Sycamore, London planetree
Lilac, Japense Tree	Oak, Red	Cottonwood (Cottonless, male)
Peach, Flowering	Pagadatree, Japense	
Plum, Purpleleaf	Birch, River	
Serviceberry	Persimmon	
	Poplar, White	
	Sassafras	

(1996 Code, § 13-307) (Ord. 914, passed - -)

§ 13-308 SPACING.

The spacing of street trees will be in accordance with the three species size classes listed in § 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. (1996 Code, § 13-308) (Ord. 914, passed - -)

§ 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 § 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. (1996 Code, § 13-309) (Ord. 914, passed - -)

§ 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 ten feet of any fireplug. (1996 Code, § 13-310) (Ord. 914, passed - -)

§ 13-311 UTILITIES.

No street trees other than those species listed as small trees in § 13-307 may be planted under or within ten 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.
(1996 Code, § 13-311) (Ord. 914, passed - -)

§ 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 ensure 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 §§ 13-307 through 13-311.
(1996 Code, § 13-312) (Ord. 914, passed - -)

§ 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.
(1996 Code, § 13-313) (Ord. 914, passed - -)

§ 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 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.
(1996 Code, § 13-314) (Ord. 914, passed - -)

§ 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.

(1996 Code, § 13-315) (Ord. 914, passed - -)

§ 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.

(1996 Code, § 13-316) (Ord. 914, passed - -)

§ 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 his or her 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.

(1996 Code, § 13-317) (Ord. 914, passed - -)

§ 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.

(1996 Code, § 13-318) (Ord. 914, passed - -)

§ 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 1 of each year. The licensee must dispose of his or her waste in compliance with the City Commission directives.

(1996 Code, § 13-319) (Ord. 914, passed - -)

ARTICLE 4: SNOW AND ICE

Section

- 13-401 Snow and ice to be removed
- 13-402 Same: exception; alternate remedy
- 13-403 Same; penalty
- 13-404 Removal may be made by city
- 13-405 Costs on tax rolls

§ 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.
(1996 Code, § 13-401)

§ 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.
(1996 Code, § 13-402)

§ 13-403 SAME; PENALTY.

Any person violating the provisions of § 13-401 shall, upon conviction, be fined \$25.
(1996 Code, § 13-403)

§ 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. (1996 Code, § 13-404)

§ 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 § 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. (1996 Code, § 13-405)