

CHAPTER XIII: STREETS AND SIDEWALKS

Article

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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 City Clerk.

§ 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)

§ 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.

§ 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)

§ 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)

§ 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)

§ 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)

§ 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)

§ 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.

§ 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.

ARTICLE 2: STREETS

Section

- 13-201 Excavation permit
- 13-202 Same; bond
- 13-203 Same; filed
- 13-204 Same; barricades and fences
- 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

Cross-reference:

Special use vehicles on streets, see § 14-204

§ 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.

§ 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.

§ 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.

§ 13-204 SAME; BARRICADES AND FENCES.

(a) *Definitions.* For the purpose of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

EXCAVATION. All human-made holes below the normal surface of the earth and being more than three feet in depth and more than two feet in width. **EXCAVATIONS** shall not include “in ground” swimming pools so long as the premises is maintained and regularly utilized as a swimming pool. **EXCAVATIONS** shall include basements so long as a

structure does not completely cover that portion lying below the normal surface.

OPEN EXCAVATIONS. All excavations, not completely covered by a structure or back filled with dirt to a level equal to the surrounding area.

(b) *Mandatory fencing off of open excavations.* All open excavations open for a period in excess of 24 hours shall be fenced off by a suitable fence or structure of such a size and quality as to impede access to the premises by children of tender years, which fence and structure shall remain on the premises so long as the excavation remains open.

(c) *Permits required for excavations left open for more than 30 days.* All excavations left open for a period of 30 days from and after the passage of this section shall thereafter be immediately refilled or covered with a suitable structure unless the owner of such property obtains from the City Clerk a permit for such excavation to remain open. Upon application for such a permit and payment of a permit fee in the amount of \$5 per day beyond 30 days for which the excavation shall remain open, the City Clerk shall thereafter issue such permit. The application for such a permit shall be paid in advance and shall not be issued for a period in excess of 30 days. Permits may, however, be reissued so long as the fee is paid as heretofore required.

(d) *Authority of city to abate nuisance.* In the event that any excavation required to be fenced is not fenced, as heretofore required, or in the event that any excavation is not covered within 30 days from and after the effective date of this section, and a permit is not obtained so as to permit the excavation remaining open as heretofore described, the governing body of the city is hereby authorized to go upon the premises and to raze such portion of the premises as is necessary and to fill the open excavation level with the surrounding area and to assess the costs for the razing and back-filling of such excavation to the landowner by the filing of such costs with the County Clerk to be assessed against such premises in the following year taxes.

(Ord. 801, passed 10-12-1987)

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

ARTICLE 3: TREES AND SHRUBS

Section

- 13-301 Public tree care
- 13-302 Diseased trees; determination
- 13-303 Same; notice served
- 13-304 Same; failure of owner; duty of city
- 13-305 Same; prevent spread of disease
- 13-306 Dangerous, dead or diseased trees on private property
- 13-307 Trees on public property; cost borne by city
- 13-308 Costs on tax rolls
- 13-309 Injuring trees and shrubs
- 13-310 Fire hydrants, plantings adjacent to
- 13-311 City Tree Board

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 of 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.

§ 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 non-resident 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.

§ 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 city employees performing any such work, the governing body may contract with any competent person, company or corporation for the performance of such work.

§ 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 ensure safety when servicing city utilities or to preserve the symmetry and beauty of public grounds. The city may remove or cause or order to be removed, any tree or part thereof that is in an unsafe condition or, 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.

§ 13-302 DISEASED TREES; DETERMINATION.

Whenever any competent city authority or competent state or federal authority shall file with the governing body a statement in writing based upon a

§ 13-305 SAME; PREVENT SPREAD OF DISEASE.

No tree, tree materials or shrubs as mentioned herein that have been cut down, either by the property owner or by the city, shall be permitted to remain on the premises, but shall be immediately treated, removed and burned or immediately burned upon the premises, if safe to do so, so as to prevent the spread of the tree disease.

§ 13-306 DANGEROUS, DEAD OR DISEASED 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 that 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 dangerous, 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. The owners, within 30 days of the notice, may request a hearing covering the ordered removal. 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.

§ 13-307 TREES ON PUBLIC PROPERTY; COST BORNE BY CITY.

The city shall have the authority to treat or to remove any tree as defined in § 13-301, 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.

§ 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 §§ 13-304 to 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 therefor are received or when such assessments are collected and received by the city.

§ 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.

§ 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 ten 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.

§ 13-311 CITY TREE BOARD.

(a) *Creation and establishment.* There is hereby created and established, a City Tree Board, which shall consist of five members, citizens and residents of the city, who shall be appointed by the Mayor with the approval of this Council.

(b) *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, the successor shall be appointed for the unexpired portion of the term.

(c) *Compensation.* Members of the Board shall serve without compensation.

(d) *Duties and responsibilities.*

(1) 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, including planting, culture and removal or disposition, of trees and shrubs in parks, streets, alleys and other lands owned or managed by the city. Such plan will be presented annually to the City Council and, upon its acceptance and approval, shall constitute the official comprehensive city tree plan for the city.

(2) The Board, when requested by the City Council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.

(e) *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. 799, passed 10-12-1987)

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.

§ 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 non-corrosive 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.

§ 13-403 SAME; PENALTY.

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

§ 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.

§ 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.

