

## CHAPTER XIII. STREETS AND SIDEWALKS

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### 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 city and a permit issued for such work by the city clerk. (Code 2012)
- 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 2012)
- 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 2012)
- 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 2012)
- 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 2012)
- 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 2012)

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 2012)

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 2012)

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 2012)

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 1987, 12.08.010; Code 2012)

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 2012)

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## 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 2012)
- 13-202. RESERVED FOR FUTURE USE.
- 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 2012)
- 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 2012)
- 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 2012)
- 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 2012)
- 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 2012)
- 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 2012)

- 13-209. USING STREETS. 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. (Code 2012)
- 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 2012)
- 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 2012)
- 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 2012)
- 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 2012)
- 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 2012)
- 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 2012)

**ARTICLE 3. TREES AND SHRUBS**

13-301. DEFINITIONS. For purposes of this article, the following words shall have the meanings set out in this section:

(a) 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.

(b) 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;

(Code 1987, 12.20.010; Code 2012)

13-302. CITY TREE BOARD; ESTABLISHED. There is hereby established a city tree board, which shall consist of five members, citizens and residents of this city, who shall be appointed by the mayor with the approval of the council. In the absence of the tree board, the governing body shall perform the functions provided herein. (Code 1987, 12.20.020; Code 2012)

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. (Code 1987, 12.20.030; Code 2012)

13-304. SAME; COMPENSATION. Members of the board shall serve without compensation. (Code 1987, 12.20.040; Code 2012)

13-305. SAME; DUTIES. (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 governing body 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 council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.

(Code 1987, 12.20.050; Code 2012)

13-306. SAME; RULES AND REGULATIONS. 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. (Code 1987. 12.20.060; Code 2012)

13-307. STREET TREES DESIGNATED. 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>
Flowering Crabapple	Honeylocust	Bur Oak

Redbud	Pin Oak	Hackberry
Hawthorn (sp)	Chinaberry	London Planetree
Bradford Pear	English Oak	American Sycamore
Purple Leaf Plum	Chinaberry (soapberry)	Red Oak
Flowering Peach	Kentucky Coffeetree	Black Walnut
	Red Mulberry (male)	Green Ash
	Goldenrain Tree	Silver Maple
	Japanese Pagodatree	Cottonwood (cottonless)
	Hard Maples (sp)	Basswood

(Code 1987, 12.20.070; Code 2012)

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:

- (a) Small Trees - 30 feet;
- (b) Medium Trees - 40 feet;
- (c) Large Trees - 50 feet.

(Code 1987, 12.20.080; Code 2012)

13-309. DISTANCE; 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:

- (a) Small Trees - two feet;
- (b) Medium Trees - three feet;
- (c) Large Trees - four feet.

(Code 1987, 12.20.090; Code 2012)

13-310. SAME; STREET CORNERS; 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 tree shall be planted closer than 10 feet of any fireplug. (Code 1987, 12.20.100; Code 2012)

13-311. UTILITIES. No street trees other than those species listed as small trees in section 13-307 of this article may be planted under or within 10 lateral feet of any overhead utility wire, or over or within five lateral feet of any underground waterline, sewer line, transmission line or other utility. (Code 1987, 12.20.110; Code 2012)

13-312. PUBLIC CARE. The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure safety when servicing city utilities or to preserve the symmetry and beauty of public grounds. The city 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. (Code 1987, 12.20.120; Code 2012)

13-313. PRUNING; CORNER CLEARANCE. (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 eight feet above the surface of the street or right-of-way. The owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign.

(b) The city tree board will notify in writing the owners of such trees needing pruning. Pruning shall be done by the owners at their own expense within 10 days after the date of service of notice. The owners, within 7 days of the notice, may request a hearing covering the ordered pruning. In the event of failure of owners to comply with such provisions, the city shall have the authority to prune the trees and charge the cost of removal on the owner's property tax notice. (Code 1987, 12.20.130; Code 2012)

13-314. DEAD OR DISEASED; REMOVAL. 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, 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. 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. (Code 1987, 12.20.140; Code 2012)

13-315. INTERFERING WITH CARE OF TREES PROHIBITED. 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. (Code 1987, 12.20.150; Code 2012)

13-316. REVIEW OF DECISIONS. The city council shall have the right to review the conduct, acts and decision of the city tree board. Any person may appeal from any ruling or order of the city tree board to the city council who may hear the matter and make final decision. (Code 1987, 12.20.170; Code 2012)

13-317. 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 or pruning of trees performed under the authority of section 13-313:314 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 2012)

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#### 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 2012)
- 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 2012)
- 13-403. SAME; PENALTY. That any person violating the provisions of section 13-401 shall, upon conviction, be fined \$25. (Code 2012)
- 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 2012)
- 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 2012)