

## **CHAPTER XIII. STREETS AND SIDEWALKS**

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### **ARTICLE 1. GENERAL STREET REGULATIONS**

- 13-101. **OBSTRUCTING PUBLIC WAYS.** It shall be unlawful for any person to obstruct any street, alley, sidewalk or public ground except when permission shall have been obtained from the governing body. (Code 1965, 15-301)
- 13-102. **OBSTRUCTING DRAINAGE.** It shall be unlawful for any person to place in or fill with concrete, dirt, planks, stones, snow, ice or other materials any drainage ditch, or to bridge any gutter or in any manner change the course of any drainage ditch or obstruct any open drain in the city. (Code 1965, 15-302)
- 13-103. **JUNK DEPOSIT UNLAWFUL.** It shall be unlawful for any person to store or deposit, or to accumulate or abandon any old iron, machinery, vehicles of any kind, vehicle bodies or parts thereof or any junk of any kind in or upon any sidewalk, street, parking, alley or public grounds within the city. (Code 1965, 15-303)
- 13-104. **CONDUCTING BUSINESS ON STREET; PENALTY.** It shall be unlawful for any person owning or engaged in any automobile or machinery repair business, or engaged in the assembly, disassembly or conversion of any items of machinery or motor vehicles of any kind, or collecting, keeping or maintaining for sale or barter, any stocks of wood, metals, glass, rags, or junk of any kind or description, to carry on such business on public property. It shall be unlawful for any person to permit or cause tools, equipment, stock in trade, junk, vehicles, motors or any other item incidental to a business to remain upon public property any longer than reasonably necessary for entry to or exit from the business premises.  
Any person violating any of the provisions of this section shall, upon conviction thereof, be fined in any sum not to exceed \$25 or be imprisoned not to exceed 25 days, or be both so fined and imprisoned. (Code 1965, 15-304)
- 13-105. **DRIVING OVER CURBS.** It shall be unlawful for any person to drive or back, any vehicle over or across any curb or curb and gutter where there is no established or improved driveway entrance or drive across any sidewalk when the same is not constructed as a part of the driveway entrance unless such curb or

curb and gutter is temporarily bridged by the use of planks of sufficient size and number so that no weight shall be imposed upon the curb or curb and gutter: provided, that such bridging shall not obstruct drainage. (Code 1965, 15-306)

- 13-106. ALLEYS; EXCAVATION, ETC; WHEN. It shall be unlawful for any person to dig up, break, excavate, tunnel, undermine, or in any manner break up any alley within the city or to make or cause to be made any excavation in or under the surface of any alley any earth or other excavated material obstructing or tending to interfere with the free use of the alley, unless such person complies with sections 13-107:109. (Ord. 912, Sec. 1)
- 13-107. SAME; PERMISSION. Before working on any alley within the city, the party intending to do such work, as described in section 13-106, shall first contact the city administrator's office to obtain permission to begin such work. (Ord. 912, Sec. 2)
- 13-108. SAME; REPAIRS AND COSTS. All damage done to existing alleys during the progress of the above-described excavation work shall be repaired by the person doing the excavating. Material for such repairs shall conform with the requirements of any applicable code or ordinance. If upon being ordered, the person doing the excavating fails to furnish the necessary labor and materials for such repairs, the city administrator shall have the authority to cause the necessary labor and materials to be furnished by the city and the cost shall be charged against the person doing the excavating, and the person shall be liable to the city for the cost. (Ord. 912, Sec. 3)
- 13-109. SAME; CLEAN-UP. As the excavation work progresses, all alleys shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All clean-up operations at the location of such excavation shall be accomplished at the expense of the person doing the excavation and shall be completed to the satisfaction of the city administrator. From time to time as may be ordered by the city administrator and in any event immediately after completion of the work, the person doing the excavating shall at his or her own expense, clean up and remove all refuse and unused materials of any kind resulting from the work and upon failure to do so within 24 hours after having been notified to do so by the city administrator, the work may be done by the city and the cost thereof charged to the person doing the excavating, and the person shall be liable to the city for the cost thereof. (Ord. 912, Sec. 4)

## **ARTICLE 2. SIDEWALKS**

- 13-201. SIDEWALK GRADE; PERMIT. All sidewalks constructed or reconstructed shall be constructed on the established grade. Where no grade has been established, the owner of abutting property may construct a sidewalk on the natural grade, but before any such sidewalk shall be constructed, the person proposing to do the same shall apply to the city clerk for a permit before commencing the work. If the grade has been established, the superintendent of

streets and parks shall furnish the property owner with the official grade by reference to a stated distance above or below the street grade. (K.S.A. 12-1807; Code 1965, 15-101)

- 13-202.         **SIDEWALK SPECIFICATIONS.** Hereafter all sidewalks shall be constructed and laid in accordance with standard plans and specifications which plans and specifications are incorporated by reference herein and on file in the office of the city clerk as provided by law. It shall be unlawful for any person, firm, or corporation to construct, reconstruct or repair any sidewalk except as provided by this article. (K.S.A. 12-1802; Code 1965, 15-102)
- 13-203.         **PETITION.** When a petition signed by not less than 10 citizens owning real estate in any ward of the city, praying for the construction of a sidewalk or sidewalks is filed with the city clerk, the governing body may in its discretion, by resolution, order such sidewalk constructed as herein provided. (K.S.A. 12-1803; Code 1965, 15-103)
- 13-204.         **CONDEMNATION AND RECONSTRUCTION OF SIDEWALKS.** 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 walk and providing for the construction of a new walk in the place of the walk condemned. (K.S.A. 12-1804; Code 1965, 15-104)
- 13-205.         **NOTICE; PUBLICATION; CONSTRUCTION BY CONTRACT.** 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 1965, 15-105)
- 13-206.         **REQUEST TO CITY BY ABUTTING OWNER, WHEN.** 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 meets such other requirements as would have to be met if the sidewalk was constructed or reconstructed by the city, to construct or reconstruct a sidewalk without any petition or a condemning resolution adopted by the governing body: provided, that if such property owner desires the sidewalk to be constructed or 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 and 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 1965, 15-106)
- 13-207.         **REPAIRS BY OWNER OR CITY.** It shall be the duty of the owner of 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 and 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 1965, 15-107)

13-208. PERFORMANCE BOND; STATUTORY LIEN BOND. In any case where the reconstruction or construction of a sidewalk is required to be done by contract so provided in section 13-205 hereof, the city may require the contractor to give a bond with good and sufficient surety 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: provided, that the city commission may waive the requirement of a performance bond. For all contracts exceeding \$10,000 entered into by the city for any such purpose, a statutory lien bond required by K.S.A. 60-1111 shall be furnished. (Code 1965, 15-108; Code 1992)

13-209. BICYCLES ON SIDEWALKS. It shall be unlawful for any person to ride a bicycle on any public sidewalk. (Code 1965, 15-307)

### **ARTICLE 3. SNOW AND ICE**

13-301. DUTY OF OWNER OR OCCUPANT. It is hereby made the duty of the owner and of the occupant of any lot abutting upon any sidewalk to cause to be removed from such sidewalk all snow and ice accumulated thereon; provided, that if the snow falls or ice accumulates upon the sidewalk in the nighttime, removal of same must be made before 12 noon on the following day. (Code 1965, 15-201)

13-302. PENALTY. Any person violating the provisions of section 15-301 shall, upon conviction thereof, be fined in any sum not more than \$25. (Code 1965, 15-202; Code 1992)

13-303. FAILURE TO REMOVE; CITY TO REMOVE; SPECIAL ASSESSMENTS. 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 the sidewalk and the costs thereof shall be assessed against such abutting lot or lots and such costs shall be collected in the same manner as is required for the building of sidewalks. (Code 1965, 15-203)

### **ARTICLE 4. SIGNS AND AWNINGS**

13-401. OVERHANGING SIGNS OR STRUCTURES. The governing body may grant permission to construct structures overhanging public property within the limits set by this article, when in the opinion of the street superintendent, the structure is properly designed. Such construction shall be under the supervision of the street superintendent. (Code 1965, 15-401)

- 13-402. BILLBOARDS AND SIGNS. (a) It shall be unlawful to erect or maintain any billboard, sign or advertising device on the streets, sidewalks or public grounds, except as provided by this article.  
(b) It shall be unlawful to erect or maintain any billboard, sign or advertising device closer to public property than a distance equal to the height of the billboard, sign or device. (Code 1965, 15-402)
- 13-403. AWNINGS, SIGNS; LOCATIONS, HEIGHT AND EXTENSION. All awnings, canopies, marquees, balconies, signs and advertising structures and devices now existing within the city, or hereafter erected, along the streets, avenues, alleys and public ways of the city, shall conform to the following locations, specifications and requirements, except as hereinafter limited or qualified:  
(a) No such structure extending outside the property line shall be supported or connected by a post or other support located outside the property line, but shall be supported from the building, or by a post or structure wholly within the property line;  
(b) No such rigid awning, canopy, marquee or balcony along a street or avenue, nor any part thereof, shall be at a lesser height above the sidewalk level than nine feet nor extend outward from the property line a greater distance than nine feet, nor in any event to a point beyond one foot back from the back of the curb;  
(c) No such retractable awning, marquee or canopy along a street or avenue shall be maintained, let down or extended outward so that any part of the frame or rigid portion thereof shall be at a lesser height above the sidewalk level than seven feet, nor extend outward from the property line a greater distance than three feet, nor in any event to a point beyond one foot back from the back of the curb.  
(Code 1965, 15-403)

## **ARTICLE 5. CURB CUTS**

- 13-501. CURB CUTS; PERMISSION. It shall be unlawful for any person, firm or corporation to cut, break, remove or otherwise injury any street curb or curbing without having first obtained the approval of the governing body and having complied with the provisions of this article. (Code 1965, 15-501)
- 13-502. SAME; APPLICATION FOR PERMISSION: BOND; STREET SUPERINTENDENT. In all cases in which any person, firm or corporation shall seek to cut or break any curb or curbing for the purpose of providing street access to any property, or for other purposes, such person, firm or corporation shall file with the city clerk, in writing, an application for permission to so cut or break the curb or curbing. The application shall be accompanied by a cash bond in the amount of \$25. Such bond shall be conditioned upon such person, firm or corporation complying with the provisions of this article. At the time of filing the application, such person, firm or corporation shall indicate by stakes or otherwise the exact place or places where such curb or curbing is proposed to be cut or broken. Upon receiving such application and bond, the city clerk shall immediately

refer the same to the city street supervisor who shall inspect the place or places where such cutting or breaking is proposed to be done for the purpose of advising the governing body as to whether such approval should be granted. The city street supervisor shall then present the application to the governing body at their next regular meeting together with his or her recommendation as to whether approval should be given. (Code 1965, 15-502)

13-503. SAME; PERMISSION REFUSED. If the governing body disapproves an application, the same shall, together with the bond, be returned to the applicant by the city clerk, who shall note that the application has been disapproved and set forth the reason or reasons for the disapproval. (Code 1965, 15-503)

13-504. SAME; SUPERVISION OF CONSTRUCTION; TIME LIMIT. If the governing body shall approve such application, the city clerk shall so notify the applicant. All cutting, breaking, altering or removing of any curb or curbing shall be done as the city street supervisor shall direct. The street supervisor shall give final approval if the work has been performed according to the terms of this article. All such work shall be completed, and final approval obtained, within a period of not to exceed 60 days from the date of approval of the application by the governing body. (Code 1965, 15-504)

13-505. SAME; UTILITIES. If it shall be necessary in the cutting, breaking, altering or removing of any curb or curbing for which the approval has been obtained, that any utility line, wire, cable, pipe, conduit, meter, meter box or other utility structure be altered or moved, then the cost thereof shall be paid by the applicant to the city clerk before final approval may be given by the street supervisor. (Code 1965, 15-505)

13-506. SAME; BOND FORFEITURE. In the event the final approval by the street supervisor is not obtained within a period of 60 days from the date of the approval of such application by the governing body as provided for in section 13-504 of this article, or if the costs of altering or moving any utility structure, as provided for in section 13-505 hereof, are not paid within the period of time, such failure shall constitute a violation of this article, and in addition the bond shall forthwith be forfeited to the city to be deposited in the street and alley fund. (Code 1965, 15-506)

13-507. SAME; RETURN OF BOND. Upon the completion by such applicant of all work authorized herein, and the receiving of final approval thereof, by the city street supervisor, the city clerk shall forthwith return to such applicant the cash bond herein required. (Code 1965, 15-507)

## **ARTICLE 6. TREES AND SHRUBS**

13-601. PERMISSION TO PLANT; TREE PLANTING PLAN. It shall be unlawful for any person to plant or remove any growing tree or shrubbery in any street, avenue, alley or parking without first obtaining permission to do so from the

governing body. (K.S.A. 12-3201; Code 1965, 15-601)

13-602. TRIMMING. It shall be the duty of the owners of property abutting any street, avenue, alley or parking to cut and trim the branches and limbs of any trees or shrubbery located in the parking or on their property so that they will not hang down over any sidewalk or the traveled portion of any street or avenue less than 12 feet above the level of such sidewalk, street or alley. (K.S.A. 12-3201; Code 1965, 15-602)

13-603. TRAFFIC HAZARD. If the chief of police determines that any tree or shrubbery located upon any street, alley, avenue or parking constitutes a traffic hazard, by dangerously obstructing the view of drivers of vehicles entering a street from an intersecting street, he or she shall notify the owner of the abutting property to remove the same, and it shall be the duty of each person to remove the same. No tree or shrub shall be planted or allowed to grow in any street, alley, avenue or parking which is located closer than 45 feet from the nearest curblineline of any intersecting street. (Code 1965, 15-603)

13-604. CITY MAY TRIM OR REMOVE. If the governing body determines that the owner of property abutting upon any street, alley, avenue or parking has failed to comply with the requirements of sections 13-602 and 13-603, he or she shall, after reasonable notice and direction to the owner to comply therewith, cause the work to be done by the city, and the cost of such work shall be assessed against the abutting property as a special assessment, to be collected. The city clerk shall certify the same to the county clerk to be entered on the tax rolls and collected in the same manner as real property taxes. Such notice and directions shall be given to the owner of abutting property by the city clerk by mail addressed to the owner's last known address, or if the same is unknown to the city clerk, then by posting such notice on the abutting property. (K.S.A. 12-3201; Code 1965, 15-604)

13-605. UTILITY COMPANIES. If in the erection, construction or repair of any telephone, telegraph, or electric light pole or wires belonging to any utility company which have been heretofore authorized to be constructed by any ordinance of the city, or which may hereafter be authorized by ordinance, it shall be necessary to cut or trim any shade or ornamental tree now planted and growing along any street, avenue or alley in the city, or which may hereafter be planted and growing wholly or partly in any street, avenue, alley or parking in the city, the company or corporation, its agents or servants, shall first apply to the abutting lot owner or his or her agent, for permission to cut or trim the same, and in the case of a disagreement between them as to how or in what manner the same shall be cut or trimmed, then the matter shall be referred to the governing body, whose decision as to the necessity of and the mode, manner and extent of the cutting and trimming necessary shall be final. (Code 1965, 15-605)

13-606. DISEASED OR INFECTED TREES. Whenever any competent city authority, or competent state or federal authority when requested by the governing body, shall file with the governing body a statement in writing based upon a 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 harbors any tree or plant disease or insect pest or larvae, the uncontrolled presence of which may constitute a hazard to or result in the damage or destruction of other trees or shrubs in the community, describing the same and where located, the governing body shall direct the city clerk to forth with issue notice requiring the owner or agent of the owner of the premises to treat or remove any such designated tree, tree material or shrub within a time specified in such notice; the notice shall be served by the city marshal or other police officer, by delivering a copy thereof to the owner, or agent of such property or if the same be unoccupied and the owner a nonresident, then the city clerk shall notify the owner by mailing a notice to his or her last known address. If the owner or agent shall fail to comply with the requirements of the notice within the time specified in the notice, then the superintendent of streets and parks shall proceed to have the designated tree, tree material or shrub treated or removed and report the cost thereof to the city clerk, and the cost of such treatment or removal shall be paid by the owner of the property or shall be assessed and charged against the lot or parcel of ground on which the tree, tree material or shrub was located. The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the unpaid costs and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. (K.S.A. 12-3204; Code 1965, 15-606)

- 13-607.           CUTTING TREES. No person shall trim or cut any shade trees for the purpose of allowing any building to pass through or upon any street, avenue or alley or lands within the city without the consent and under the direction of the owner of the trees and of the street supervisor. (K.S.A. 12-3207; Code 1965, 15-607)