

## CHAPTER XIII. STREETS AND SIDEWALKS

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### ARTICLE 1. CURB, GUTTER AND SIDEWALK CONSTRUCTION

- 13-101. PERMIT REQUIRED. Unless otherwise provided under the terms of this article, no improvements of any kind may be constructed in the city right-of-way without first obtaining a building permit from the city building inspector and unless the improvement is covered under section 13-103, and shall pay a permit fee of \$5.00. (C.O. No. 8, Sec. 2; Code 1988)
- 13-102. SPECIFICATIONS. All public sidewalks, curbs, landings, gutters and private driveways, cutting through or passing over curbs and sidewalks, constructed within the city shall comply with all applicable federal, state and local laws and shall be of concrete, unless otherwise ordered by the governing body of the city, and shall be constructed in accordance with the provisions contained herein, and any reasonable rules and regulations recommended by the city building inspector and adopted by the city governing body. (Ord. 749, Sec. 1; Code 2005)
- 13-103. PERMITS IN CERTAIN SITUATIONS. Every person, before constructing any public sidewalk, way, landing, curb, gutter or driveway, cutting through or passing over a sidewalk or curb, or before removing any curb or sidewalk for the purpose of constructing a private driveway in the city, shall be required to obtain a permit from the city building inspector for which permit a fee of \$10 shall be charged authorizing the permit holder to engage in such work for a period not to exceed three months. The term of such permit may be extended to a maximum of 12 months by the payment of \$2.50 for each additional month. (C.O. No. 8, Sec. 4; Code 1988)
- 13-104. PERMIT REQUIREMENTS. Before a permit is granted under section 13-103 of this article by the city building inspector, the person applying for same shall:
- (a) Deliver to the city building inspector detailed plans setting forth the location, width, and depth of the proposed improvement.
  - (b) Show satisfactory evidence to the city building inspector that he or she is skilled in the heart of laying public sidewalks, curbs, landings, gutters and cutting through such curbs and sidewalks.
  - (c) Shall post a bond in the amount of \$2,000, which shall be approved as to form by the city governing body. The condition of such bond shall be that the principal therein shall comply with all ordinances of the city relating to and regulating the construction or removal of all public sidewalks, curbs, walkways, landings, gutters and private driveways cutting through or passing over curbs or sidewalks and hold and save the city harmless from any and all damage to person or property resulting from or growing out of any opening or excavation made,

materials stored or placed upon any operation, any street, alley or public property or from any other act or omission of the principal therein.  
(C.O. No. 8, Sec. 5; Code 1988)

- 13-105.       **CONSTRUCTION; WHEN.** No public sidewalks, curbs, walkways, landings, gutters or private driveways across or through any curb or sidewalk shall be constructed or laid either in whole or in part during such time as the outside temperature is below 40 degrees Fahrenheit, without the person constructing or laying the same first receiving a special written permit from the building inspector.  
(C.O. No. 9, Sec. 2; Code 1988)
- 13-106.       **GRADE.** All public sidewalks and landings constructed within the city right-of-way under the provisions of this ordinance shall be four foot in width with a ¼ inch slope per foot. The slope shall be downward toward the curb. A broom finish shall be used. (C.O. No. 8, Sec. 7; Code 1988)
- 13-107.       **PLACEMENT.** Whenever there is an existing sidewalk within the block where a sidewalk is being constructed, the new sidewalk shall be connected with the existing sidewalk. The sidewalk shall be placed either at the curb line or abutting the property line. In no case shall a permit be issued for a property owner to place the sidewalk over a city water main. The grade shall be approved by the city building inspector. (Ord. 749, Sec. 2; Code 2005)
- 13-108.       **PROPERTY OWNER RESPONSIBLE.** The property owner is responsible for replacing any sidewalk which is removed due to maintenance of city utility lines. The property owner shall see that the sidewalk is replaced within 30 days of completion of the maintenance. (C.O. No.8, Sec. 9; Code 1988)
- 13-109.       **INSPECTION.** Every contractor or other person constructing public sidewalks, curbs, gutters, private driveways, walkways and landings shall notify the city building inspector when the work is ready for inspection so as to give the city building inspector ample time to make the inspection before the concrete sets. If upon investigation and inspection, the city building inspector, or his or her agent, finds that the public sidewalks, curbs, gutters, private driveway, walkway, landing or driveway across the parking of the street, is not according to the specifications provided for in the plans and drawings submitted or required by the city, or provided by this ordinance, he or she may refuse to accept and approve the work and require that any error in the construction be corrected at once and before the acceptance of the work. (C.O. No. 8, Sec. 10; Code 1988)
- 13-110.       **APPROVAL.** The contractor and owner shall obtain the approval of the city building inspector upon completion of any such sidewalks, curbs, walkways, landings, gutters and private driveways. (C.O. No. 8, Sec. 11; Code 1988)
- 13-111.       **PETITION.** The city governing body may by resolution passed at any meeting require the building of new sidewalks upon the written petition of the owners of 51 percent of the property fronting on and running to the middle of the block on any street adjacent to the sidewalk requested. The entire block shall be constructed in this case. (C.O. No. 8, Sec. 12; Code 1988)

- 13-112. NOTIFICATION. The resolution referred to in the preceding section shall specify the kind, the width and length of the sidewalk to be built. It shall also designate a time in which the sidewalk shall be built and shall not be later than 120 days after passage of such resolution. Immediately upon the passage of the resolution by the governing body directing that the sidewalk is to be built, it shall be the duty of the city clerk to cause the publication of such resolution, together with the notice, stating the names of street or streets upon which sidewalks are to be constructed, which resolution and notice shall be published once in the official city paper. (C.O. No. 8, Sec. 13; Code 1988)
- 13-113. ESTIMATE OF COSTS. An estimate of the costs thereof shall be first made under oath by the city engineer and submitted to the governing body. Sealed proposals for the construction of such sidewalk shall be invited by the city clerk by any reasonable means. The city governing body shall let the work by contract to the lowest bidder, if the bid is within the estimate. (C.O. No. 8, Sec. 14; Code 1988)
- 13-114. ASSESSMENT OF COSTS. The cost of the construction of all public sidewalks, curbs and gutters in front of municipally owned, or federally owned property, in the city, except sidewalks, curbs and gutters for public parks in the city shall be assessed against the owners of the abutting property and the assessment levied against such property as provided by law. (C.O. No. 8, Sec. 15; Code 1988)
- 13-115. REPAIRS BY CITY. No formality shall be required to authorize the repairing of sidewalks. The city engineer after giving five days written notice to the owner of any abutting property may make all necessary repairs at any time keeping account the costs thereof and reporting the same to the city governing body, who shall levy a special assessment against the lot or price of land abutting on the piece of sidewalk of the cost of repairs. Notice shall be considered adequate if forwarded by restricted mail, return receipt requested, to the last owner as reflected in the office of the Sedgwick county clerk or register of deeds. (C.O. No. 8, Sec. 16; Code 1988)
- 13-116. PENALTY. Anyone violating the terms of this article in addition to any other rights or remedies afforded to the city under either law or equity, shall be fined not in excess of \$300.00. (C.O. No. 8, Sec. 17; Code 1988)
- 13-117. RIGHTS RETAINED. Notwithstanding any other clauses herein to the contrary the city shall have all the rights and remedies afforded under K.S.A. 12-1804 through 12-1816. (C.O. No. 8, Sec. 18; Code 1988)
- 13-118. SUBSTANCE DEFINED. Substance, when used in this article, means cement, concrete, asphalt or other permanent material not manually and easily removable. (Code 1976)
- 13-119. CONSTRUCTION OVER UTILITY LINES; RESTRICTIONS. No substance shall be constructed, placed or laid over any city utility lines or mains; providing, whoever, the substance may, if otherwise provided in the plans and specifications, be laid over a public utility line, providing the substance does not cover more than four lineal feet of the line, and provided, further, the substance shall not be laid adjacent to, or within four feet of any existing permanent substance covering the utility line. (Code 1976)

- 13-120. SAME; APPLICABILITY. Section 13-113 shall not apply to the substances laid or constructed for the primary use of vehicles or as a driveway. (Code 1976)
- 13-121. SAME; CONSTRUCTION STANDARDS GENERALLY. All sidewalks shall be constructed, repaired, and reconstructed in a good and workmanlike manner, and in accordance with plans and specifications adopted by the governing body of the city. The plans and specifications are adopted by reference and shall be kept on file in the city clerk's office, and, if the city has a city engineer, in the city engineer's office. (Code 1976)
- 13-122. SAME; REPAIRS; REQUIREMENTS. The city employees may at any time remove the substance or sidewalk whenever city considers it necessary to repair, replace or maintain the lines. In such an instance the record owner shall be solely responsible for immediately replacing or repairing the substance or sidewalk in a good and workmanlike manner, and in accordance with the terms of this article. The adjacent property owners shall not damage or remove the substance or sidewalk without first obtaining the written consent of the building inspector and shall be responsible, at all times, for maintaining the substance or sidewalk in good and safe condition and in accordance with this article. (Code 1976)

## 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 1996)
- 13-202. SAME; BOND. (a) No permit authorized in this article shall be issued until the applicant has given to the city a good and sufficient bond in the sum of \$5,000 conditioned that the applicant will faithfully comply with all the terms and conditions of this article, and will indemnify and hold the city harmless against all costs, expenses, damages and injuries by persons or by the city sustained by reason of the carelessness or negligence of the permit holder. No bond for this purpose shall run for longer than two years without being renewed. The bond shall remain in full force and effect as to each excavation for two years after the same has been made or completed.
- (b) Any utility operating under a franchise or a contractor under contract with the city for municipal improvement shall not be required to give bond as provided in subsection (a).
- (c) Each bond given under this section shall be approved by the city attorney and filed with the city clerk.  
(Code 1996)
- 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 \$5.00. Each permit issued under the provisions of this section shall cover only one specified excavation. (Code 1996)
- 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 1996)
- 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 1996)
- 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 1996)

- 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 1996)
- 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 1996)
- 13-209.           USING STREETS. (a) No person shall occupy any portion of any street, alley or sidewalk for the purpose of temporarily storing building materials without first obtaining a permit for such temporary use from the governing body.  
                  (b) No person may use any portion of any sidewalk or street right-of-way for the purpose of displaying or offering for sale wares, goods, merchandise or other items. Nothing in this article, however, shall be construed as prohibiting the city governing body from temporarily waiving the prohibition of this subsection in connection with community promotions or community-wide celebrations when such waiver is considered to be in the best interest of the city.  
(Code 1996)
- 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 1996)
- 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 1996)
- 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 1996)
- 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 1996)
- 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 1996)

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 1996)

### ARTICLE 3. TREES AND SHRUBS

- 13-301.       PROPERTY OWNER'S DUTY TO MAINTAIN. It shall be the duty of all persons owning or controlling any real estate in the city, abutting or adjoining any street or avenue, to trim and keep trimmed the trees, brush, growth and undergrowth on their premises and the premises over which they exercise any control or which may be adjacent to the property owned by them so that the growth, limbs and undergrowth therefrom shall not hang or extend down over any sidewalk less than eight feet from the level of such sidewalk nor less than 14 feet over any street or avenue from the level of the street or avenue. This shall include, but not be limited to, trees, brush, growth and undergrowth located on the city right-of-way when same is adjacent to the owner's property. (Code 1976, 12.12.010)
- 13-302.       COMPLAINTS; SERVING; HEARING. Whenever a petition or complaint is filed with the city, a complaint shall be issued and served upon the owner, and shall contain a notice that a hearing will be held before the municipal court judge at a place fixed not less than 10 nor more than 30 days after the serving of the complaint. The owner shall thereupon appear and give testimony and otherwise present his or her defense, if any he or she may have. (Code 1976, 12.12.020)
- 13-303.       COMPLIANCE PERIOD; FAILURE; CITY ACTION. If, after such notice of hearing, the municipal court determines that the owner is in violation of this article, he or she shall be given 30 days thereafter within which to comply. In addition to any other rights or remedies, if the owner fails to comply, the city may cause the limbs, growth or undergrowth to be trimmed or removed. (Code 1976, 12.12.030)
- 13-304.       COSTS OF REMOVAL A LIEN. The cost of removal or trimming shall be a lien against the real property of the owner and such lien, including as a part thereof allowance for costs, may be foreclosed in judicial proceedings in the manner provided by law for loans secured by real estate, or shall be assessed as a special assessment against the lots or parcel of land upon which (or adjacent to) the limbs, growth or undergrowth were located. The city clerk shall at the time of certifying to the city certify the unpaid portion of the aforesaid costs to the county clerk for assessment against the lots or parcels of land. (Code 1976, 12.12.040)



#### 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 2016)
- 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 1996)
- 13-403. SAME; PENALTY. That any person violating the provisions of section 13-401 shall, upon conviction, be fined \$25.00.  
(Code 1996)
- 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 1996)
- 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 1996)

## ARTICLE 5. SIGHT OBSTRUCTIONS

- 13-501.        **OBSTRUCTING VIEW PROHIBITED.** In all areas, on public or private property at any corner formed by intersecting streets, it is unlawful to install, set out, maintain or allow the installation, setting out or maintenance of any sign, fence, hedge, shrubbery, natural growth or other obstruction to view, within that triangle formed by the centerline of the intersecting streets drawn from the point of intersection back a distance of 90 feet with a line drawn to form a base. Traffic signs placed under the authority of the city marshal or other law enforcement officer shall not be considered a violation of this article.  
(Code 1976)
- 13-502.        **EXCEPTIONS.** The provisions of section 13-501 shall not apply to permanent buildings public utility poles; hedges trimmed to a height of less than 33 inches above gutter grade; trees, the limbs of which are at all times kept trimmed of limbs and sucker or other growth on the trunk to a height of at least eight feet above the ground level or the limbs of which overhang the public street and are at all times kept trimmed of sucker growth to a height of at least 13 feet and six inches above the street level; or plant species, not planted in the form of a hedge, which are so planted and trimmed as to leave at all times a clear and unobstructed cross view; ornamental fence not exceeding four feet in height, provided the ratio of the solid portion of the fence to the open shall not exceed one to four; supporting members appurtenant to permanent buildings existing prior to November 24, 1970; official warning signs or signals; places where the contour of the ground is such that there can be no cross visibility at the intersection; or to signs mounted 10 feet or more above the ground whose supports do not constitute an obstruction.  
(Code 1976)
- 13-503.        **ABATEMENT; NOTICE.** When, in the opinion of the city council, an obstruction to visibility exists, as prohibited herein, it is their duty to give notice in writing to the property owner or owners complained against, provided that the notice shall specify in what manner a traffic hazard has been alleged to exist. The notice shall direct the removal by the property owner or owners of the structures, trees or other obstructions which constitute the traffic hazard. The property owner or owners of the structures, trees or other obstructions shall be allowed 30 days in which to comply with the order, except obstructions of a temporary nature, which shall be removed on notice.  
(Code 1976)
- 13-504.        **PETITION FOR HEARING; APPEAL.** Any property owner or owners may, within the 30 day period, petition the municipal court of the city, in writing, for a hearing to obtain a judicial determination as to whether or not this article has in fact been violated. The petition must be delivered to the city clerk within the 30 day period. Any ruling of the municipal court may be appealed either by the city or the owner or owners within 10 days by complying with the law prevailing for criminal appeals out of the municipal court.  
(Code 1976)

13-505. ABATEMENT BY CITY; ASSESSMENT. (a) If, within 30 days after the mailing of the notice by the city council, the owner or owners of the lot or parcel of and have failed, refused or neglected to remove the obstruction, then the city council shall cause to be removed obstructions on the lots or pieces of land of the owners. The cost of removal shall be certified by the city council to the city clerk, who shall cause the costs to be assessed against the particular lots or pieces of land in front of or abutting upon the street or alley or road right-of-way from which the obstructions were so removed.

(b) In the event a petition has been filed with the municipal court as herein provided, the city's rights hereunder shall not accrue until 10 days after the court's determination.

(Code 1976)