

CHAPTER XIII. STREETS AND SIDEWALKS

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ARTICLE 1. GENERAL REGULATIONS

- 13-101. **OBSTRUCTIONS ON SIDEWALKS.** (a) On Center and Broadway, from Second Street to Sixteenth Street, it shall be unlawful for any person to place, leave or deposit or cause to be placed, left or deposited in or upon any sidewalk any article or thing, except trash receptacles and park benches, so as to obstruct or otherwise encumber the same, or to obstruct the same longer than is necessary for loading or unloading any such objects, unless approval for its placement is granted by the city council.
- (b) Any person who encumbers, obstructs or causes to be encumbered or obstructed any sidewalk by placing thereon any article or thing whatever without first having obtained the approval of the city council as provided in subparagraph (a) above, shall, upon conviction thereof, be fined not less than \$50.00 nor more than \$250.00 for each day that said article or thing so obstructs said sidewalk. (Ord. 1548, Sec. 1)
- 13-102. **SAME; PERMITS.** The city may grant temporary permits for a limited time only to abutting property owners to use or encumber sidewalks or public ways of the city during the construction of any building abutting thereon. (Code 1987)
- 13-103. **BARRIERS AND GUARDS.** Any person having charge of any construction or excavation adjacent to or under any sidewalk or street, during the progress of such work, shall take the necessary safety precautions. (Code 1987)
- 13-104. **REMOVE BARRIERS.** No person, except those having authority from the city, shall 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 1987)
- 13-105. **UNFINISHED PAVEMENT.** No person shall walk upon, drive or ride over or across any pavement, sidewalk or incomplete grading which has not been open for traffic. (Code 1987)

- 13-106. **DANGEROUS OBJECTS.** No person shall place or throw any glass, tacks, nails, bottles, wire or other dangerous objects on any street, alley, sidewalk or other public grounds of the city. (Code 1987)
- 13-107. **KEEP SIDEWALKS CLEAN; NOTICE.** All public sidewalks shall be kept clean and free of rubbish, trash, debris and weeds. Failure to do so shall result in the city clerk notifying the owner, tenant or occupant that the sidewalk shall be cleaned within 24 hours. (Code 1987)
- 13-108. **SALES UPON STREETS.** Any person desiring to sell or offer or expose for sale any merchandise, or to give an exhibition upon the streets, alleys or other public property within the congested business district, or in any way obstruct traffic by causing a crowd to gather in the streets, alleys or public places in the district shall first obtain the approval of the governing body. For the purpose of this section, the congested business district is defined as that part of the city bounded on the west by the west line of Fifth Street, on the south by the south line of Elm Street, on the east by the east line of Twelfth Street, and on the north by the north line of Carolina Street. This article will be enforced upon citizen complaint to the police department. (Ord. 389, Sec. 1; Code 1987)
- 13-109. **STREET PARKING.** It shall be unlawful for any person to construct, place, plant or maintain on the parkings of the city within 35 feet of any street intersection within the city any bush, tree or other object except the customary mail boxes for the deposit of mail and storage receptacle for mail, owned and installed by the United States Postal Service, in violation of the following rules:
(a) Trees and bushes shall be trimmed in accordance with Section 12-706(c).
(b) Any other object shall not be higher than 30 inches above the top of the curb nearest the object unless a lower height is determined by a member of the board of health to preclude a traffic or safety hazard. (Ord. 1449, Sec. 1)
- 13-110. **USE OF SKATEBOARDS RESTRICTED.** (a) No person shall use, operate or ride any skateboard or rollerblades upon the streets, highways, sidewalks or other public areas of the city as follows:
 (1) Center and Broadway, from Fifth to Thirteenth Street, and the intersecting numbered streets between Center and Broadway from the east side of Fifth to the west side of Thirteenth Street;
 (2) North side of Elm, from Seventh to Tenth Street, and the intersecting numbered streets between Broadway and Elm from the east side of Seventh to the west side of Tenth Street;
 (3) Those sides of Tenth, Eleventh, Alston and Carolina Streets immediately adjacent to the Marysville Elementary School;
 (4) Those sides of Thirteenth, Fourteenth, Center and Carolina Streets immediately adjacent to the St. Gregory's School; and
 (5) Those sides of Tenth, Twelfth and Walnut Streets immediately adjacent to the junior and senior high schools.

(b) A law enforcement officer detaining a person for violating this section may impound the skateboard. In the case of the violation of this section by a person who is 18 years or older, the skateboard shall be released by the City Police Department if the violator appears at the City Police Department and provides self-identification. Persons under the age of 18 must appear at the City Police Department with a parent or guardian to obtain release of the skateboard; however, if no such parent or guardian resides in the city, the skateboard can be released if its owner provides a letter from a parent or guardian requesting that it be released.

(c) An impoundment fee of \$25.00 will be collected by the City Police Department prior to the release of any skateboard or rollerblades.

(d) Violation of this section is a municipal offense punishable by a fine of up to \$100.00. (Ord. 1374, Sec. 1)

13-111. **USE OF BICYCLES RESTRICTED.** No person shall use, operate or ride any bicycle upon the sidewalks of the city along Center and Broadway, from Fifth to Thirteenth Street, and the intersecting numbered streets from the east side of Fifth to the west side of Thirteenth Street. (Ord. 1374, Sec. 1)

ARTICLE 2. STREET STANDARDS

- 13-201. **EXCAVATION ON CITY PROPERTY; PERMISSION.** Any person desiring to make any connection; or lay, or construct any sewer, drain, gas, water or other pipe or conduit, or dig any hole, ditch or trench; or make any excavation or tunnel in or under any street, avenue, alley, parking, pavement, sidewalk, crosswalk or easement through property in the city shall first obtain permission from the city building inspector who shall verify the location of any water or sewage lines in the area. (Ord. 1066, Sec. 1; Code 1987)
- 13-202. **CUTTING PAVEMENT; PERMITS.** Any person desiring to make a cut in any street, alley, pavement or sidewalk shall first make application to the city clerk. He or she shall be issued a permit, upon approval by the city building inspector and payment of the appropriate fee. A blanket permit may be issued if the excavation project involves more than one cut. (Ord. 1400, Sec. 1)
- 13-203. **FEES.** The following fees shall apply for a Cut Pavement Permit:
- (a) A fee of \$50.00 will be charged and a permit issued for each separate cut to any street, alley or pavement constructed with concrete, brick, asphalt or hot mix which has a perimeter measurement of 30 lineal feet or less. An additional charge of \$1.00 per lineal foot of perimeter will be assessed for cuts over the minimum 30 lineal feet.
 - (b) A fee of \$10.00 will be charged and a permit issued for each separate cut to any sidewalk or pavement not a part of an alley or street.
 - (c) A fee of \$50.00 per city block number, or equivalent, will be charged for any excavation, auger or tunnel in or under any unpaved street or alley. (Ord. 1400, Sec. 2)
- 13-204. **EXCAVATIONS; BACKFILLING; RESTORATION OF IMPROVEMENT.** Excavations of pavement, gutter or sidewalk shall be in accordance with specifications on file in the city clerk's office. All replacement of pavement, gutter or sidewalks shall be done by persons who are experienced in such work and fully qualified to do the same in a proper and substantial manner. The replacement of pavement, gutters or sidewalks shall be done with identical material, with the exception that hot mix may be replaced with concrete. Any person who shall persistently fail, refuse or neglect to comply with the provisions of this section or any reasonable orders and directions of the city building inspector may be refused any further permits by the city clerk. (Ord. 1066, Sec. 3; Code 1987)
- 13-205. **PENALTY.** Any person that has not properly backfilled or paved any cut or excavation within the provisions of this article shall, upon conviction thereof, be deemed guilty of a violation of this code. Such person to whom the permit for such work was issued shall not be issued further permits until such charges have been paid in full. (Ord. 1066, Sec. 4)

ARTICLE 3. SIDEWALK STANDARDS

- 13-301. **SIDEWALKS; WIDTH.** The width of the permanent sidewalks, parking grounds and roadways on the residence streets and avenues in the city are hereby established and declared to be established as follows: the sidewalks and parking grounds shall occupy one-fourth of the street or avenue on each side, and the roadway shall occupy the other or center half of the street or avenue. The minimum width of a sidewalk shall be five feet. (Ord. 192, Sec. 1; Code 2011)
- 13-302. **POSITION OF SIDEWALKS.** The space reserved for sidewalks shall be adjoining the line of the lots and the gutters shall be placed between the parking grounds and the roadway. (Ord. 192, Sec. 2)
- 13-303. **ABUTTING OWNERS KEEP SIDEWALKS IN GOOD REPAIR.** It shall be the duty of the owner of the abutting property to keep sidewalks in repair. Upon complaint to or at the discretion of the city inspector, the city may, after giving 45 days notice to the owner or his or her agent, if known, of the necessity therefore, and without notice if the lot or piece of land is unoccupied, make all necessary repairs at any time. An account of the costs thereof shall be kept and reported to the city clerk who shall mail to the owner or his or her agent, if known, a printed or written notice of the amount of such repairs. If the abutting property owner does not pay the cost within 30 days, the full amount shall be certified by the city clerk to the county clerk to be put on the tax rolls for collection like other taxes. (K.S.A. 12-1808; Code 1987)
- 13-304. **NEW SIDEWALKS.** Any person, firm or corporation shall, prior to the installation and construction of any new sidewalk within the corporate limits, request that a grade be established by the public works director and shall install and construct such sidewalk to conform to the grade as established. (Ord. 895, Sec. 1)
- 13-305. **ESTABLISHING GRADES: CITY TO PAY CERTAIN COSTS.** The public works director shall be in charge of establishing grades for new sidewalks and replacement sidewalks. The governing body may incur additional engineering costs to assist in the establishment of the grades provided for herein, in order that sidewalks constructed or replaced shall conform to a uniform grade for the best interests of the city. (Ord. 895, Sec. 4)
- 13-306. **REPLACING SIDEWALKS.** (a) Any person prior to the replacement of any sidewalk to the extent of more than 25 percent of its length on one side of property within the city shall request that a grade be established by the public works director and shall replace such sidewalk to conform to the grade as established.
- (b) Any person who replaces 25 percent or less of a sidewalk on one side of property within the city shall make such replacement to conform to the sidewalk grade existing at the time of such replacement. (Ord. 895, Secs. 2:3)

ARTICLE 4. TREES AND SHRUBS

- 13-401. **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 insure 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 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 2011)
- 13-402. **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 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. (Code 2011)
- 13-403. **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 nonresident of the city, then the city clerk shall notify the owner by mailing a notice by certified mail to his last known address. (Code 2011)
- 13-404. **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.
- 13-405. **SAME; PREVENT SPREAD OF DISEASE.** No tree, tree materials or shrubs as mentioned herein which 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. (Code 2011)

- 13-406. **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 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 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. (Code 2011)
- 13-407. **TREES ON PUBLIC PROPERTY; COST BORNE BY CITY.** The city shall have the authority to treat or to remove any tree as defined in section 13-401 of this article, 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. (Code 2011)
- 13-408. **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 sections 13-404:406 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 therefore are received or when such assessments are collected and received by the city. (Code 2011)
- 13-409. **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. (Code 2011)
- 13-410. **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 10 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. (Code 2011)

ARTICLE 5. SNOW AND ICE.

- 13-501. **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 unless authorized by the public works director.
- 13-502. **SAME; EXCEPTION; ALTERNATE REMEDY.** Where there shall be ice or compacted snow on any such sidewalk or 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.
- 13-503. **SAME; PENALTY.** That any person violating the provisions of section 13-501 shall, upon conviction, be fined \$25.00.
- 13-504. **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.
- 13-505. **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 13-504 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 therefore are received or when such assessments are collected and received by the city.