

CHAPTER XIII: STREETS AND SIDEWALKS

Article

- 1. DRIVEWAY ENTRANCES, CULVERTS; SIDEWALK CONSTRUCTION**
- 2. STREET AND SIDEWALK REGULATIONS**
- 3. TREES AND SHRUBS**
- 4. SNOW AND ICE**
- 5. RIGHT-OF-WAY MANAGEMENT**

**ARTICLE 1: DRIVEWAY ENTRANCES, CULVERTS;
SIDEWALK CONSTRUCTION**

Section

- 13-101 Construction of drainage culverts
- 13-102 Sidewalk construction along certain major thoroughfares
- 13-103 Repairs by owner or city

§ 13-101 CONSTRUCTION OF DRAINAGE CULVERTS.

It shall be unlawful for any person, firm or corporation to place any building materials such as stones, planks, dirt, sand or gravel in any gutter or drainage ditch or in any other manner to interfere with the natural drainage of any ditch or drain. The owner of abutting property, when it shall be impracticable to open or construct an entrance across any such ditch or drain, on application to and approval of the City Council, may construct or install a culvert crossing. The governing body of the city may, if it deems it necessary, prepare a resolution declaring it necessary to construct a culvert (or culverts) on a uniform line and grade and of a proper size to handle drainage at any private driveway entrance or entrances onto any street of dirt, sand or gravel constructed in the city. The owner of abutting land shall pay the cost of all culverts in the manner provided by law.
(K.S.A. 68-543 et seq.)

§ 13-102 SIDEWALK CONSTRUCTION ALONG CERTAIN MAJOR THOROUGHFARES.

(a) (1) Nothing herein shall prohibit the owner of property abutting on a street who desires to construct or reconstruct a sidewalk from doing so without any petition or condemning resolution, if he or she does so at his or her own expense and in accordance with official plans and specifications and meets such other requirements as would have to be met if the sidewalk were constructed or reconstructed by the city.

(2) If such property owner desires the walk to be constructed or reconstructed by the city and an assessment levied as provided in other cases, he or she shall file a request with the governing body and it may in its discretion provide for the construction or reconstruction of the sidewalk in the same manner as in cases where citizens or taxpayers file petitions.

(b) The governing body of the city may, in its discretion declare that a sidewalk along a major thoroughfare is necessary to the safety and welfare of the general public and authorize the acquisition

of land, and the design and construction of a sidewalk thereon with the cost thereof to be paid by the city.

(Charter Ord. 5, passed 5-15-1996)

Statutory reference:

Sidewalk grade, see K.S.A. 12-1807

Similar provisions, see K.S.A. 12-1806

§ 13-103 REPAIRS BY OWNER OR CITY.

Except when constructed along a major thoroughfare pursuant to § 13-102(b), it shall be the duty of the owner of property abutting on any sidewalk to keep the same repaired, but the city may, after giving five days' written notice to the owner or his or her agent (if known) of the necessity of making the repairs and without notice if the abutting lot or piece of land is unoccupied, make all necessary repairs at any time. The cost of such repairs are to be assessed against the lot or piece of land abutting on the sidewalk so repaired as may be provided by law. When the governing body of the city, in its discretion, determines that a sidewalk constructed in accordance with § 13-102(b), herein above is in need of repair, it may repair or replace the same as the need arises, with the cost of such repairs to be paid by the city.

(Charter Ord. 5, passed 5-15-1996)

Statutory reference:

Similar provisions, see K.S.A. 12-1808

ARTICLE 2: STREET AND SIDEWALK REGULATIONS

Section

- 13-201 Excavation permit
- 13-202 Same; bond
- 13-203 Same; filed
- 13-204 Same; barricades
- 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
- 13-216 Trees in street parking; regulations

§ 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 \$50. Each permit issued under the provisions of this section shall cover only one specified excavation.

§ 13-204 SAME; BARRICADES.

Any person to whom an excavation permit is issued shall enclose all excavations that he or she 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.

§ 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.

§ 13-216 TREES IN STREET PARKING; REGULATIONS.

All trees and shrubs extending over any portion of any public way shall be so trimmed and maintained that the branches, or any portion thereof, shall not overhang any sidewalk lower than eight feet from the surface thereof nor lower than 14 feet from the roadway of any street or alley; provided, that it shall be the duty of the owner or occupant of the property adjacent to any parking in which trees or shrubs are cultivated to remove any low-hanging branches, dead trees or dead or decayed limb or branch thereof, constituting a hazard to the traveling public. If such owner fails or refuses to trim or remove any such trees or limbs in violation of this section, and upon not less than five days' written notice to the owner of his or her agent, the city may trim or remove such trees or limbs with the cost thereof to be assessed against the land upon which such tree is located or which adjoins the parking upon which such tree is located.

(Ord. 2185, passed 10-17-2011)

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

§ 13-301 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 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 nonresident 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.

§ 13-305 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.

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 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.

§ 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.

ARTICLE 5: RIGHT-OF-WAY MANAGEMENT

Section

- 13-501 Permit required; exceptions
- 13-502 Same; failure to obtain permit; penalty
- 13-503 Grounds for denial
- 13-504 Bond required
- 13-505 Same; hold harmless provision
- 13-506 Supervision
- 13-507 Barricades and warning devices
- 13-508 Unlawful acts
- 13-509 Backfilling; restoration or improvements
- 13-510 Method and manner of cutting pavement; excavating
- 13-511 Repair by city; costs

§ 13-501 PERMIT REQUIRED; EXCEPTIONS.

(a) Except as provided below, every person contemplating the placement of poles, laying of any underground pipe, main or conduit in any of the streets, alleys or other public lands in the city for the purpose of transmitting, distributing or furnishing of water, gas, oil, steam, electric power, telephone or telegraph service shall file in the office of the City Clerk, at least ten days before the commencement of the excavation work for the laying of such pipe, main, conduit or poles, a map or plat showing the location, size and length of such pipe, main or conduit; all connections, branches, cutoffs, lamps, posts, poles, buildings and other attachments; the depth of such pipe, main, conduit and connections underground; and the size and dimensions of all buildings and appurtenances above ground. The person making such a map or plat shall attach thereto an oath stating that such a map or plat is correct.

(b) No permit shall be required under this section, nor shall a bond be required under § 13-504, for any person for whom a sewer application is pending at the time the excavation is to commence, or to any franchisee of the city.

(c) Such person shall also file an application for a permit to do any of the above in a form provided by the City Clerk, together with the permit application fee in the amount of \$50.
(Ord. 1796, passed 10-4-1999)

§ 13-502 SAME; FAILURE TO OBTAIN PERMIT; PENALTY.

Where any work as set forth in § 13-501, for which a permit is required, is commenced prior to obtaining such permit, the fee specified in this article shall be doubled, but the payment of such double fee shall not relieve any person from fully complying with the requirements of this provision in the execution of such work, nor from any penalties prescribed in this article.

(Ord. 1796, passed 10-4-1999)

§ 13-503 GROUNDS FOR DENIAL.

If any person shall persistently fail, refuse or neglect to comply with the provisions of this article, or any reasonable orders and directions of the City Utility Superintendent, or his or her designee, shall be grounds to refuse to issue any further permits to such person.

(Ord. 1796, passed 10-4-1999)

§ 13-504 BOND REQUIRED.

(a) No permit shall be granted under this article unless the applicant gives or has given to the city a bond in the sum of \$5,000, to be approved as to sufficiency by the City Utility Superintendent and to be approved as to form by the City Attorney, conditioned that the applicant will faithfully comply with all the terms and conditions of this article and all rules and regulations made in pursuance thereof; and indemnify and hold the city harmless against all costs, expenses, damages and injuries by the city sustained by reason of the failure or neglect of the applicant or others working for or under the authority of the applicant, to comply with any of the provisions of this article or any rules and regulations made in pursuance thereof.

(b) No bond issued under this section shall run for a period longer than two years without being renewed, and the bond shall remain in force and effect as to each excavation or work done for two years after such excavation or work has been made or done.

(Ord. 1796, passed 10-4-1999)

§ 13-505 SAME; HOLD HARMLESS PROVISION.

The permit holder under this article shall hold the city harmless from any and all claims or damages whatsoever to persons or property that may result from the excavation or for any liability for an accident to persons, animals, vehicles, conduits or property of any kind, where the accident has as its proximate cause the making of such excavation, and such person shall also be liable to the city on their bond for such claims or damages.

(Ord. 1796, passed 10-4-1999)

§ 13-506 SUPERVISION.

(a) The City Utility Superintendent shall superintend and inspect all street excavations and work done under the provisions of this article, subject to such orders, rules and regulations as may be made by the governing body of the city.

(b) The work shall be done to the satisfaction of the City Utility Superintendent.
(Ord. 1796, passed 10-4-1999)

§ 13-507 BARRICADES AND WARNING DEVICES.

(a) All persons to whom any permit is issued under this article shall agree to and accept the following conditions:

(1) Enclose all excavations which they may make in the public streets, avenues or alleys with adequate barriers and danger signals at all times, and in addition, shall maintain adequate warning lights at night. All warning devices shall comply with the “Manual on Uniform Traffic Control Devices for Streets and Highways”;

(2) Install and maintain additional barricades, signs and lights at both ends of the block in case the excavation is made between thoroughfare intersections, causing restricted travel or dead-end conditions;

(3) Furnish and install cones or signs to channel traffic around a barricaded area to maintain safe traffic lanes; and

(4) Take all other necessary precautions to guard the public against all accidents from the beginning of the work to the completion of the work.

(b) It shall be the duty of every person who shall be in charge of an excavation which is accessible to the public for more than 30 days to cause such excavation to be securely guarded by a fence at least six feet in height.

(Ord. 1796, passed 10-4-1999)

§ 13-508 UNLAWFUL ACTS.

Any person who shall make or attempt to make any excavation or re-fill an excavation, or do or attempt to do any other act in violation of the provisions of this article, or any person who shall remove or attempt to remove from the site of the excavation or other work any of the barricades, danger signals or lights required by the provisions of this article, shall be deemed guilty of a misdemeanor.

(Ord. 1796, passed 10-4-1999)

§ 13-509 BACKFILLING; RESTORATION OR IMPROVEMENTS.

All excavation and backfilling shall be made with such material and in such manner as may be directed by the City Engineer or an authorized representative, and all replacement of pavement, gutters or asphalt shall be done by persons who are experienced in such work and fully qualified to do such work in a proper and substantial manner. No backfilling under curbs, pavements, gutters or asphalt shall be performed except in the immediate presence of and under the direction of the City Utility Superintendent or his or her authorized representative. All other excavations shall be backfilled, compacted, graded and re-seeded as necessary to put the land back in substantially the same condition

as existed before the excavation. Any directions that may be given, either in writing or orally, by the City Utility Superintendent, or his or her authorized representative, to any person engaged in making or backfilling any such excavation shall be obeyed. The violation of such directions or the failure to perform such work shall be deemed to be a violation of the provisions of this article.

(Ord. 1796, passed 10-4-1999)

§ 13-510 METHOD AND MANNER OF CUTTING PAVEMENT; EXCAVATING.

Any person making a street cut or excavation shall make it in the manner designated by the City Utility Superintendent, or his or her representative. Any person making a cut, opening or excavation in any public street, alley or other public property shall execute the work in a complete and workmanlike manner, utilizing equipment and methods which will cause a minimum of damage to the structural elements of the pavement of the street, alley or right-of-way. The length and width of the cut or width of a street or a lane of a street may be closed or debris left overnight on a public street, alley or right-of-way only on the approval of and for such time as authorized by the City Public Works Superintendent.

(Ord. 1796, passed 10-4-1999)

§ 13-511 REPAIR BY CITY; COSTS.

(a) If the proper backfilling, bridging, plating or paving of a cut or excavation is not made or if obstructions are placed in the street, alley or right-of-way not in conformance with the provisions of this article, the Department of Public Works shall perform the backfilling, bridging, plating or paving and remove such material, equipment, barricades or any other obstructions.

(b) The Department of Public Works shall keep an accurate account of the cost of such operation required under division (a) above, and such costs, plus 100% for overhead, shall be charged to the person to whom the permit for such work was issued. No further excavation permit shall be issued to such person until such charges have been paid in full.

(Ord. 1796, passed 10-4-1999)