

CHAPTER XIII. STREETS AND SIDEWALKS

- Article 1. Sidewalks
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ARTICLE 1. SIDEWALKS

- 13-101. **PERMIT REQUIRED.** It shall be unlawful to construct, reconstruct or repair any sidewalk within the city until a permit is issued for such work by the city inspector. (Code 1991; Code 2010)
- 13-102. **SIDEWALK GRADE.** Hereafter all sidewalks constructed or reconstructed in the city shall be constructed on the established grade. When the governing body shall order a sidewalk constructed as hereafter provided, the city shall pay the cost of bringing the street to grade for the sidewalk. Where no grade has been established, the owner of abutting property may construct a sidewalk on the natural grade. If the grade has been established, the city inspector shall furnish the property owner with the official grade by reference to a stated distance above or below the street grade. (K.S.A. 12-1801, 12-1807; Code 1975, 17-102; Code 1991)
- 13-103. **SAME; SPECIFICATIONS.** Hereafter all sidewalks shall be of single- course construction and shall be constructed and laid in accordance with standard plans and specifications hereby adopted by reference and filed in the office of the city clerk as provided by K.S.A. 12-1802. It shall be unlawful for any person, firm or corporation to construct, reconstruct or repair any sidewalk except as provided by this article. (Code 1975, 17-101; Code 1991)
- 13-104. **SAME; PETITION.** When a petition signed by no fewer than 10 citizens owning real estate in the city requesting construction of a sidewalk is filed with the city clerk, the governing body may in its discretion, by a resolution, order such sidewalk constructed as herein provided. (K.S.A. 12-1803; Code 1975, 17-104; Code 1991)
- 13-105. **SAME; CONDEMNATION, RECONSTRUCTION.** 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 1975, 17-105; Code 1991)

- 13-106. NOTICE; PUBLICATION. The resolution providing for the construction or reconstruction of a sidewalk, shall give the owner of the abutting property not less than 30 days or 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 1975, 17-106; Code 1991; Code 2010)
- 13-107. RIGHT OF ABUTTING OWNER. Nothing in this article shall be construed to prohibit the owner of property abutting on a street, who desires to construct or reconstruct a sidewalk at his or her own expense and in accordance with official plans and specifications for the purpose and which meet such other requirements as would have to be met if the sidewalk were constructed or reconstructed by the city, to construct or reconstruct a sidewalk without any petition or a condemning resolution by the governing body. If such property owner desires the sidewalk to be constructed and reconstructed by the city and an assessment levied as provided by law in other cases, he or she shall file a request with the governing body. The governing body, in its discretion, may provide for the construction or reconstruction of the sidewalk requested in the same manner as in other cases where citizens or taxpayers petition the governing body. (K.S.A. 12-1806; Code 1975, 17-107; Code 1991)
- 13-108. REPAIRS BY OWNER OR CITY. It shall be the duty of the owner of the abutting property to keep the sidewalk in repair, but the city may, after giving five days' notice to the owner or his or her agent, if known, of the necessity for making repairs or without notice if the lot or piece of land is unoccupied, make all necessary repairs at any time. The same shall be done and the cost thereof assessed against the lot or piece of land abutting on the sidewalk so repaired as may be provided by law. (K.S.A. 12-1808; Code 1975, 17-108; Code 1991)
- 13-109. OBSTRUCTING SIDEWALKS. It shall be unlawful for any person to build or construct any step or other obstruction, whether temporary or permanent, or to store, leave or allow to be left any implements, tools, merchandise, goods, containers, benches, display or show cases, on any sidewalks or other public ways in the city or to obstruct the same longer than is necessary for loading or unloading any such article or object. (Code 1991)
- 13-110. SAME; EXCEPTION. The governing body may authorize the granting of temporary permits in connection with a building or moving permit for limited times only to the owner of property abutting on any sidewalk to use or encumber such sidewalk or public way of the city during the construction of any building or improvement thereon. No permit shall be issued for such purpose until plans for warning and safeguarding the public during such use of sidewalks shall have been submitted by the owner or his or her contractor and approved by the governing body. (Code 1991)

ARTICLE 2. PAVEMENT, CURBS AND STREET REGULATIONS

- 13-201. **CUTTING PAVEMENTS, CURBS, SIDEWALKS.** It shall be unlawful for any person to cut pavements, curbs or sidewalks or remove the same or make excavation in the streets, alleys or public ways of the city for any purpose without first applying for and receiving a permit from the city inspector. (Code 1975 17-201; Code 2010)
- 13-202. **PERMIT; HOW SERVED.** Any person desiring to obtain a permit for the purposes of section 13-201 of this article shall make an application to the city inspector describing the work to be done and the location thereof. Upon approval by the city inspector, the city clerk shall issue a permit to the applicant and shall supply the applicant with a copy of the specifications established, if any, for the doing of such work. (Code 1975, 17-202; Code 2010)
- 13-203. **WORK TO BE DONE AT EXPENSE OF PERMIT HOLDER.** All curbs, pavements, sidewalks or excavations in streets, alleys or public ways are to be cut or removed, or cut and replaced at the expense of the person holding the permit for such work, the same to be done in accordance with the specifications, if any, furnished by the city engineer. (Code 1975, 17-203; Code 2010)
- 13-204. **CUTTING PAVEMENT; HOW.** When the condition of the sidewalk or pavement, in the opinion of the city engineer, requires it, the pavement or sidewalk shall be cut by the use of a concrete saw; provided, that the city may supply such cutting equipment with an operator at a fee sufficient to pay the reasonable cost of labor and replacement of the equipment. (Code 1975, 17-204)
- 13-205. **RECONSTRUCTION OF PAVEMENT OR SIDEWALK.** The sums hereinbefore required to be paid to the city shall be used for the replacement of the surface of paved or improved streets, alleys or sidewalks in accordance with the plans and specifications of the city therefor. All such work shall be done by employees of the city under the direction of the street superintendent; provided, that the street superintendent may require that contractors shall backfill, with well tamped material, all excavations in dirt, gravel, sealed earth and sidewalk locations and if the same is not done to the reasonable satisfaction of the street superintendent, the completion may be done by the city and the cost of the same shall be paid by the contractors. (Code 1975, 17-205)
- 13-206. **EXCAVATIONS; BARRICADES; LIGHTS.** It shall be unlawful for any person to make any excavation in any street, alley, sidewalk or public way of the city without a permit thereof or to leave any excavation, building material, vehicle, stones, bricks, other materials or obstructions in or on any street, alley, sidewalk or public way in the city during the course of any work, unless the same be protected by barricades at all times or in the nighttime unless the excavation, building materials or obstruction is guarded with red lanterns or flares, sufficient in number and so located as to guard and warn vehicles and passers-by of the extent and danger of such excavation or obstruction. Such lights shall be illuminated before dark and left burning during the nighttime; provided, that it shall be the duty of any officer or any employee of the city having charge of any of the foregoing work, to

place suitable warning signs and barricades to guard the public against injury and in the nighttime to keep and maintain a sufficient number of warning lights as in the case of other persons provided further, that the street superintendent is authorized to direct the placing any barricade, warning sign or lights herein required, and he or she may, if the public safety requires it, during the progress of any such work, close off the public street or sidewalk or any portion thereof to prevent public use of the same; provided further, that any person holding a permit to cut streets or sidewalks shall not be released from any obligation to barricade, light and otherwise guard or warn vehicles or passers-by of the extent and danger of the excavation until 24 hours after notification has been given to the street superintendent, Sundays and holiday excepted, that the excavation is ready for backfill and/or surface replacement. (Code 1975, 17-206)

13-207. DRIVEWAY ENTRANCE. It shall be the duty of the city engineer to prepare suitable plans and specifications for the cutting and removal of curbs when it is desired to construct any driveway entrance to any private premises or lots used in the city for parking purposes. It shall be the duty of any person having a permit for the removal of curbs to construct or reconstruct any entrance or sidewalk constituting part of such entrance in accordance with the plans and specifications therefor. No such entrance shall block or impede the free flow of water along the gutter or drainage ditch and no such entrance shall be constructed above the grade level or drainage course. (Code 1975, 17-207)

13-208. ABANDONMENT OF DRIVEWAY; DUTY OF OWNER. Whenever the owner of real property shall abandon the use of a driveway entrance for which there is an opening or cut in the curb, it shall be the duty of the owner of such real estate, at his or her own expense, to cause the opening or cut in the curb to be closed; provided, that he or she must first apply for and secure a permit for such work in the same manner as a permit is secured under section 13-202 of this article; the work shall be done in accordance with the specifications, if any, furnished by the city engineer. (Code 1975, 17-208; Code 2010)

13-209. USE OF CULVERTS. When it shall be impracticable to open, construct or maintain an entrance across any drainage ditch or drain under the foregoing section, such places may be bridged by culverts at driveway entrances. Such culverts or bridges shall comply with the plans and specifications of the city engineer. All such culverts shall be of sufficient capacity as not to interfere with the drainage, and the same shall be subject to approval by the city engineer or street superintendent. The abutting lot owners shall pay the cost of all such culverts in the manner provided by law. (Code 1975, 17-209)

13-210. 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 except as provided in the foregoing section, or in any manner change the course of any drainage ditch or obstruct any open drain in the city. (Code 1975, 17-210)

13-211. MUNICIPAL PROJECTS. Nothing in this article shall be construed as to prohibit the backfill of excavations, repair and replacement of surfaces by contractors in the performance of street sewer and waterline and other improvement projects under the direction of the city engineer. (Code 1975, 17-211)

ARTICLE 3. STREET USES REGULATED

- 13-301. WORK ADJACENT TO STREETS; ENCUMBERING STREETS. It shall be unlawful for any person making an excavation or doing any work adjacent to or under any sidewalk or street to do any such work without proper barricades or safety guards or lights or to obstruct any street, alley or sidewalk of the city by placing or disposing therein building materials, or to obstruct any such street, alley, sidewalk without first securing the approval of the city engineer. Upon completion of the work, the contractor or person in charge shall clean up the public ways within not less than 10 days after the completion of the work. (Code 1975, 17-301)
- 13-302. CELLAR ENTRANCES. It shall be unlawful for any person to open or reconstruct any entrance into a cellar-way in a sidewalk or street without the approval of the governing body. All cellar-ways or pavement entrances now existing in any sidewalk or street, or which may hereafter be so constructed, shall be protected by a good and substantial iron railing to be approved by the building inspector in accordance with the building code. Any person who shall open or leave unprotected any cellar entrance, cellar-way, coal hole or grating in any street or sidewalk in the city, or permit the same to remain or be in an unsafe condition shall, upon conviction thereof, be fined in any sum not less than \$5.00 nor more than \$100.00. (Code 1975, 17-302)
- 13-303. TRESPASSING ON PARKING; CURBS. It shall be unlawful for any person to drive, ride or cross with either vehicles, livestock or by foot, any portion of the street parking adjacent to the premises of any person owning or occupying property in the city which has been prepared and plotted as parking to the premises. It shall further be unlawful for any person to drive any vehicle over curb or a sidewalk, except at an established entrance, or to break or remove any such sidewalk or curb without a permit therefor; provided, that the governing body may authorize the use of the parking for the standing or parking of vehicles under such conditions as may be determined by the governing body. (Code 1975, 17-303)
- 13-304. STORAGE ON SIDEWALKS, STREETS, ALLEYS. It shall be unlawful for any person to leave or allow to be left any implements, tools, boxes, merchandise, goods, trash cans, crates, garbage containers, corn poppers, peanut or popcorn roasters, ice cream containers, advertising or showcases on any sidewalk, street, alley or traveled way in the city longer than is necessary for unloading or loading the same; provided, that the city manager may grant temporary permission for a limited time only for the sidewalks, streets, alleys or traveled way to be used by the occupants of premises adjacent thereto when the same shall not endanger or inconvenience the public. The city reserves the right at any time upon notice to the owner or occupant of such premises to order the removal of any such obstruction at the expense of the owner or occupant, the same to be collected as provided by law. (Code 1975, 17-304)
- 13-305. UNLAWFUL STREET DEPOSITS. It shall be unlawful for any person to throw, place, deposit or leave or cause to be thrown, placed, deposited or left in any of the public streets, alleys, parks or thoroughfares in the city, any dirt, filth, sewage, sweepings, excrement, compost, papers, garbage, stable manure, boxes,

ashes, lumber, coal, wood, kindling, grass, weeds, vegetables, sops or litter of any kind. (Code 1975, 17-305)

13-306. CURB PUMPS PROHIBITED. No person shall hereafter erect or install any gasoline or oil pumps or compressed air devices in or along the parking of any street or along the curblin thereof where it shall be necessary for the person served by such pumps or devices to stop their vehicles in the streets while receiving such service. (Code 1975, 17-307)

13-307. POSTING BILLS. It shall be unlawful for any person to post or put up any handbill, advertisements, posters, showbills or other signs on any building, pole or property in or along any public street or way in the city, except with the permission of the owner thereof. (Code 1975, 17-308)

13-308. GLASS, TACKS, NAILS. It shall be unlawful for any person to place, throw, or cause to be placed or thrown on any street, alley, sidewalk or other public property of the city any glass, tacks, nails, bottles or any other substance or thing that might do injury to any person or animals, or cut or puncture any pneumatic tire when passing over the same. (Code 1975, 17-309)

13-309. HEAVY VEHICLES. It shall be unlawful for any person to drive, operate or move any heavy vehicle, tractor, trailer or other heavy object equipped with metal lugs or sharp metal rims on or over any paved streets in the city unless the paving shall be protected by planks sufficient to protect against injury from such lugs or rims, or unless such vehicles or objects are otherwise protected to save such street from injury. (Code 1975, 17-310)

13-310. HAULING OVER STREETS. It shall be unlawful for any person to haul or carry over the streets, sidewalks or public ways any garbage, rubbish or refuse of any kind except in a vehicle so covered, constructed or protected as to prevent the escaping, splashing or spilling of such material or substance therein contained or hauled. (Code 1975, 17-311)

13-311. MOLESTING PAVING AND SIDEWALKS. It shall be unlawful for any person to walk upon, drive over or across any pavement, sidewalk or similar public improvement in the street, during the course of construction and before the same has been opened for public travel. (Code 1975, 17-312)

13-312. INJURY BY PETROLEUM PRODUCTS. It shall be unlawful for any person to deposit or throw any waste, crankcase oil, fuel oil, coal oil, gasoline or other petroleum liquid products or acids into or on or willfully permit the same to be spilled, dripped or otherwise come into contact with the surface of any street improved by asphalt paving. (Code 1975, 17-313)

13-313. REMOVAL OF BARRICADES AND LIGHTS. It shall be unlawful for any person to remove, throw down, run down, destroy or otherwise injure any barricade or safety wall erected as required by ordinance, or to remove, carry away or injure any warning lights placed on or about any such work, except such person who shall be in charge of any such work. (Code 1975, 17-314)

- 13-314. RAILROAD CROSSINGS. No person operating or who may hereafter operate a railroad into or through the city shall permit any train to remain across any street crossing or sidewalk of the city so as to interfere with the passage of vehicles and pedestrians for a longer period of time than 10 minutes, and in case it is necessary for such train to remain standing for a longer period of time than 10 minutes, it shall be uncoupled at such crossing and the cars separated so that vehicles and pedestrians may pass. (Code 1975, 17-315)
- 13-315. WIDTH OF STREETS, ALLEYS, EASEMENTS. For the purpose of allowing unobstructed passage of traffic and the maintenance of public utilities in the streets, alleys, parkings and easements of the city, it is hereby declared that in all areas hereinafter annexed to or subdivided in the city, all streets shall be a minimum width of 60 feet or greater as directed by the governing body, and all alleys shall have a minimum width of 20 feet and all utility easements and parkings and other public property in which utilities may hereafter be installed shall have a minimum width of 14 feet. (Code 1975, 17-316)
- 13-316. PENALTY. Any person violating any of the provisions of this article, for which another penalty is not specifically provided shall, upon conviction thereof, be punished by a fine of not more than \$100.00, or be imprisoned not to exceed 30 days, or be both so fined and imprisoned; provided, that if any person shall continue any obstruction or make any unlawful use, as in this article provided, of any sidewalk, street or public way in the city after being notified by the director of public safety to remove the obstruction or cease to make unlawful use of such place, the same shall constitute a separate offense hereunder. (Code 1975, 17-317)

ARTICLE 4. SPECIAL REGULATIONS; CERTAIN STREETS

- 13-401. ENCROACHMENTS PROHIBITED. It shall be unlawful, except as hereinafter provided, for any person to erect, construct, install, place, maintain or allow to remain or to permit the erection, construction, installation, placing maintenance or remaining of any encroachment upon or above the right-of-way, or any portion thereof, of the following designated streets:
 (a) Walnut Street from Second to Seventh Avenue;
 (b) Seventh Avenue from Ohio Street westward to the city limits.
(Code 1975, 17-401; Code 2010)
- 13-402. DEFINITIONS. The word encroachment when used in this article shall mean and include any sign, awning, canopy, marquee, billboard or other advertising device, merchandise stand or display, building or other structure, or other use for private purposes of any character which exists in or rests upon or projects above the right-of-way of any portion thereof of a public street. (Code 1975, 17-402)
- 13-403. NOTICE TO REMOVE; REMOVAL. Whenever any encroachment exists in violation of the provisions of this article, the city inspector will issue a notice requiring the removal of such encroachment within a time specified in such notice. If the owner of such encroachment, or his or her agent, is known, such notice shall be a written notice served in person or by mail upon such owner or agent. If the owner or agent is unknown, such notice shall be published once in the official city paper. If the owner or agent shall fail or refuse to remove the encroachment within the time fixed in the notice, the city shall cause the encroachment to be removed. (Code 1975, 17-403; Code 2010)
- 13-404. PENALTY. Any person violating any of the provisions of this article shall be deemed guilty of a code violation and upon conviction thereof shall, for each offense, be fined a sum not exceeding \$50.00 and each day that a violation is continued shall constitute a separate offense. (Code 1975, 17-404)
- 13-405. NOT TO AFFECT OTHER STREETS. Nothing in this article is intended to affect encroachments upon streets or portions of streets not described in section 13-401 of this article. (Code 1975, 17-405)

ARTICLE 5. SNOW AND ICE

- 13-501. **SNOW AND ICE TO BE REMOVED.** It is hereby made the duty of the owner and the occupant of any lot abutting upon any sidewalk to cause to be removed from such sidewalk all snow and ice within 12 hours from the time that the snowfall or ice storm ceases, and to keep such sidewalks at all times free from the accumulation of snow and ice. (Code 1975, 17-601; Code 1991)
- 13-502. **BUILDINGS, STRUCTURES NEAR STREETS, ALLEYS, SIDEWALKS.** It is hereby made the duty of the owner and of the occupant of any building or structure located near or adjacent to any street, alley or sidewalk to remove at his or her own expense any accumulation of snow or ice upon the roof or side thereof which overhangs or is likely to fall on such street, alley or sidewalk and which is dangerous or hazardous to pedestrians or vehicles on such street, alley or sidewalk. (Code 1975, 17-602)
- 13-503. **PENALTY.** Any person violating the provisions of section 13-501 of this article shall, upon conviction thereof, be fined not more than \$100.00 or be imprisoned not more than 30 days, or be both so fined and imprisoned. (Code 1975, 17-603)