

## **CHAPTER XIII: STREETS AND SIDEWALKS**

### Article

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- 2. SIDEWALKS**
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- 4. TREES AND SHRUBS**
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## ARTICLE 1: GENERAL PROVISIONS

### Section

- 13-101 Street Superintendent
- 13-102 Obstructing street or sidewalk
- 13-103 Same; exception
- 13-104 Same
- 13-105 Removal of obstructions
- 13-106 Safeguards for excavation adjacent to or under streets
- 13-107 Barb wire fences; iron points

#### ' 13-101 STREET SUPERINTENDENT.

(a) It shall be the duty of the Street Superintendent to have supervision of keeping in repair all streets, alleys, avenues, lanes and other public thoroughfares of the city, in the performance of which duty he or she shall have charge of the cleaning of all ditches and gutters; he or she shall keep in repair all chatted or graveled streets and shall notify the governing body of repairs needed on all improved streets.

(b) The Street Superintendent is authorized to direct the placing of any barricade, warning signs or lights herein required, and he or she may if the public safety requires it, during the progress of any work, close off the public street or sidewalk or any portion thereof to prevent public use of the same.  
(1997 Code, ' 13-101)

#### ' 13-102 OBSTRUCTING STREET OR SIDEWALK.

(a) It shall be unlawful for any person to cause, create or maintain any obstruction on any street, alley, sidewalk or the public way, except as may be specified by ordinance or be necessitated by public improvements.

(b) It shall be unlawful to erect, place or maintain any booth, stand, gasoline pump, air station, furniture, bench or similar structure or device upon any street, alley or sidewalk in the city, as may be specified by code.  
(1997 Code, ' 13-102)

**' 13-103 SAME; EXCEPTION.**

The provision prohibiting the obstruction of any street, alley or sidewalk shall not apply to any fence, barricades, scaffold, sidewalk, shed or walkway erected and maintained in accordance with the provisions of Chapter 4.

(1997 Code, ' 13-103) (Ord. 522, adopted 5-16-1992)

**' 13-104 SAME.**

The following events or occurrences otherwise restricted by ' 13-102 shall be excepted therefrom:

(a) The public sale of merchandise sponsored by an organization recognized by the governing body. Streets and sidewalks may be used during such sale by any merchant endorsed by the organization sponsoring such sale. Approval of the governing body shall be conditioned upon obtaining permission from the proper authority for temporary closing of any street or highway. The sale shall be of no more than three days duration. The governing body shall exercise discretion regarding the number of times per calendar year it authorizes this exception;

(b) Upon approval by the city zoning authority and approval and payment of the applicable fee schedule pursuant to ' 1-802; and

(c) The placing of three flagpoles on the sidewalk along the west side of the south 60 feet of Lots 6 and 7 in Block 38 of the city for the display of the American, Kansas, Prisoner of War (POW) and American Legion flags. Placement, maintenance and insurance shall be governed by an agreement between the American Legion Post #38 and the city.

(1997 Code, ' 13-104) (Ord. 522, adopted 5-16-1992; Ord. 654, adopted 10-6-1999)

**' 13-105 REMOVAL OF OBSTRUCTIONS.**

(a) Where any sign, structure, building or street obstruction is located or maintained in violation of this code, the Street Superintendent may give notice to the person responsible for placing or maintaining same to remove the same. The responsible person may request a hearing before the governing body, which may by resolution, direct the removal of any such sign, structure, building, curb pump or other obstruction from any street or traveled way in the city. Where the same shall not be removed within time specified by the governing body, the Street Superintendent shall remove the obstruction at the expense of the person placing or maintaining the same. The City Clerk shall render a bill for the cost of removal and upon failure to pay the same; he or she shall assess the same as in the case of sidewalk assessments and certify the claim of the city to the County Clerk for collection as in the case of special assessments.

(b) No person shall continue any obstruction or make any use of any sidewalk, street or public way in the city which is prohibited by this article after being notified by a city official to remove the same or cease the prohibited use.

(1997 Code, ' 13-105) (Ord. 807, adopted 3-7-2012)

**' 13-106 SAFEGUARDS FOR EXCAVATION ADJACENT TO OR UNDER STREETS.**

It shall be unlawful for any person who has charge of making an excavation or doing any work adjacent to or under any sidewalk or street to do any such work without proper barricades, safety guards to protect the public from falling into such excavations.

(1997 Code, ' 13-106)

**' 13-107 BARB WIRE FENCES; IRON POINTS.**

It shall be unlawful for any person to place any barb wire or any sharp points on any railing or posts within 12 inches of any street, alley or sidewalk on the city. (See ' 1-802.)

(1997 Code, ' 13-107)



## ARTICLE 2: SIDEWALKS

### Section

- 13-201 Permit required
- 13-202 Sidewalk grade
- 13-203 Same; specifications
- 13-204 Same; petition
- 13-205 Same; condemnation, reconstruction
- 13-206 Notice; publication
- 13-207 Right of abutting owner
- 13-208 Repairs by owner or city
- 13-209 Performance, statutory bond
- 13-210 Obstructing sidewalks
- 13-211 Same; exception
- 13-212 Removal of obstruction
- 13-213 Same; earth on sidewalks
- 13-214 Obstructing drainage
- 13-215 Driveway entrances; improved streets
- 13-216 Same; unimproved streets
- 13-217 Cost of sharing sidewalk replacement
- 13-218 Violations

#### ' 13-201 PERMIT REQUIRED.

It shall be unlawful to construct, reconstruct or repair any sidewalk within the city until the plans first have been approved by the Street Superintendent or his/her designated agent and a permit issued for such work by the City Clerk.

(1997 Code, ' 13-201)

#### ' 13-202 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 Clerk 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) (1997 Code, ' 13-202)

**' 13-203 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.

(1997 Code, ' 13-203)

**' 13-204 SAME; PETITION.**

When a petition signed by no fewer than ten 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) (1997 Code, ' 13-204)

**' 13-205 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) (1997 Code, ' 13-205)

**' 13-206 NOTICE; PUBLICATION.**

The resolution providing for the construction or reconstruction of a sidewalk, as the case may be, shall give the owner of the abutting property not less than 30 days nor more than 60 days after its publication one time in the official city paper in which to construct or cause to be constructed or reconstructed the sidewalk at his or her own expense. If the sidewalk is not constructed by the property owner within the time specified, the governing body shall cause the work to be done by contract.

(K.S.A. 12-1805) (1997 Code, ' 13-206)

**' 13-207 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) (1997 Code, ' 13-207)



**' 13-208 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) (1997 Code, ' 13-208)

**' 13-209 PERFORMANCE, STATUTORY BOND.**

In any case where the reconstruction or construction of a sidewalk is required to be done by contract as provided in ' 13-206 hereof, the governing body may require the contractor to give a bond for the faithful performance of the contract and for the construction of the sidewalk in accordance with the plans and specifications, ordinances of the city or laws of the state, and for all contracts exceeding \$1,000 entered into by the city for any such purpose, a statutory lien bond required by K.S.A. 60-1111 shall be furnished.

(1997 Code, ' 13-209)

**' 13-210 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.

(1997 Code, ' 13-210)

**' 13-211 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.

(1997 Code, ' 13-214)

**' 13-212 REMOVAL OF OBSTRUCTION.**

The city reserves the right at any time upon notice to the owner or occupant of any premises who shall have obstructed the street or sidewalk to remove such obstruction at the expense of the owner or occupant and the expense shall be collected as provided by law.

(1997 Code, ' 13-211) (Ord. 807, adopted 3-7-2012)

**' 13-213 SAME; EARTH ON SIDEWALKS.**

It shall be unlawful for the owner or occupant of any lot or piece of ground abutting on any sidewalk to allow the accumulation on such sidewalk of any earth or substance therefrom by reason of the washing to drainage from such lot or ground. The Street Superintendent shall notify such person of such condition and shall afford him or her an opportunity to remove the accumulation and correct the condition causing the same.

(1997 Code, ' 13-212)

**' 13-214 OBSTRUCTING DRAINAGE.**

It shall be unlawful for any person to place in or fill with concrete, dirt, planks, stones or other materials any drainage ditch or in any manner change the drainage or course of any drainage ditch or obstruct an open drain in the city.

(1997 Code, ' 13-213)

**' 13-215 DRIVEWAY ENTRANCES; IMPROVED STREETS.**

When any abutting owner shall desire to open or improve an entrance from an improved street to his or her premises and it shall be necessary to cross a sidewalk or curb or remove any curb or gutter for such improvement, the owner shall give notice thereof to the Street Superintendent who shall direct the improvement work to be done as follows:

(a) In every case where a curb or gutter is cut or removed for an entrance, the curb at either side of the entrance shall be reconstructed as to round off at each side of the entrance by a segment constructed meeting city requirements; and

(b) The entrance shall be constructed as a whole and complete work as to make the driveway paving and the valley of the gutter part of the same construction, but with sufficient expansion joints.

(A) Where it is proposed to construct any entrance across a permanent curb or gutter or a sidewalk without any paved driveway the same may be done, but the sidewalk or curb and gutter shall be cut or removed and reconstructed as provided in this section.

(B) In all cases the parking may be cut down from the grade of the sidewalk to the level of the gutter valley.

(1997 Code, ' 13-215)

**' 13-216 SAME; UNIMPROVED STREETS.**

(a) When any paved or other entrance shall be constructed or opened by an abutting lot owner from

any street having no permanent curbs or gutters and across any ditch or unimproved drainage course at the entrance to any premises or across any permanent sidewalk, the paving and sidewalk shall be constructed or reconstructed as provided in ' 13-215. The entrance driveway shall slope down from the sidewalk grade to the valley of the drainage ditch or course, and when paved, the same shall not block or impede the free flow of water along such drainage and shall not be constructed above the grade level of such ditch or course.

(b) When it shall be impracticable to open, construct or maintain an entrance across any drainage ditch or drain under division (a) above, such places may be bridged by culverts at driveway entrances. All such culverts and the manner of their installation shall be approved by the Street Superintendent and shall be of steel or concrete of not less than ten inches in diameter and not less than 20 feet in length. Property owners are responsible for providing driveway culverts and the city shall be responsible for the installation.

(c) When a property owner requests that a drainage ditch be bridged for any reason other than creating a driveway entrance, it shall be the responsibility of the Street Superintendent to inform said owner of the size and type of culvert required and any drainage structures, such as connecting boxes or area drains that will be required. Property owners will be responsible for the cost of all improvements, including costs for the city to install the culverts and any administration costs involved with the design of said improvements. Property owners shall hire a licensed, bonded and insured contractor to install all connection boxes and area drains. All such items will need to be pre-approved by the Street Superintendent as to design and location prior to installation. The property owner has the choice to either have the city or the contractor install the culverts. The city will have an updated pay schedule for review at City Hall with cost breakdowns for equipment and manpower associated with the installation. If the contractor installs the culverts, the city will provide the inspector to make sure all connections and procedures are done to city specifications.

(1997 Code, ' 13-216) (Ord. 763, adopted 11-7-2007)

### **' 13-217 COST OF SHARING SIDEWALK REPLACEMENT.**

(a) The City Council shall appropriate annually \$10,000 from the city/county infrastructure grant for cost sharing of sidewalk replacement within the city. The city shall pay \$10 per linear foot on a cost-sharing basis for sidewalk.

(b) (1) The construction guidelines on sidewalks will be five and one-half sack cement strength, four inches in thickness, and five feet in width. Regarding replacing sections of existing sidewalk, the Street Superintendent has the authority to allow new sidewalk to match the width of the existing sidewalk for aesthetic purposes. Where sidewalks cross driveways, alleys or streets, the thickness of the cement will be six inches.

(2) A copy of the concrete invoice must be presented for verification of the cement mix before any reimbursement is made.

(c) A contractor may be secured by the property owner to do the sidewalk construction or the

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property owner can complete the installation himself or herself. Either the contractor or the property owner will be responsible for form materials for the sidewalk construction.

(d) The property owner or contractor shall be responsible for disposal of the old sidewalk material.

(e) The Street Superintendent will review the installation of the individual sidewalks to ensure the applicants have met all the requirements of the city codes.

(f) This program shall be for replacement of old sidewalk and for new sidewalk along the horizontal front footage in front of residence or in the case of a corner lot along the side yard.

(g) Payment to individual property owners shall be made by the city after inspection of the completed project. The Street Superintendent will inspect the completed sidewalk and issue authorization to the City Clerk=s office to pay the individual property owner the amount based on running foot of sidewalk.

(h) Unusual situations that are not covered by these general conditions, will be referred to the city governing body for resolution.

(i) Application:

**APPLICATION FOR SIDEWALK REPLACEMENT**

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APPLICATION NO. \_\_\_\_\_ DATE \_\_\_\_\_

I, \_\_\_\_\_ (print name) of \_\_\_\_\_ (print address) hereby make application to the City of Burlington for sidewalk replacement funds. I understand that the sidewalk replacement will be on a cost-sharing basis with the City of Burlington paying \$10.00 per linear foot of each individual sidewalk replacement project. I also understand that my application will be acted upon on a first-come, first-serve basis by the City Clerk=s office. I further understand that the sidewalk must be constructed to specifications of City of Burlington Code Chapter XIII, Streets and Sidewalks, Article 2, Sidewalks, as provided by the Street Superintendent. I understand that the Street Superintendent is the City Street Sidewalk Construction Inspector; and that if I have any questions on the construction of sidewalks, I should refer them to the Street Superintendent.

\_\_\_\_\_  
(Signature of Applicant)

**ITEMS TO BE SUBMITTED FOR VERIFICATION OF PROJECT COMPLETION:**

1. The frontage of your lot(s): \_\_\_\_\_ linear feet.
2. Invoices for work and/or materials.

**NOTE:**

**APPLICANT MUST READ PAGE TWO OF THIS APPLICATION AND SIGN ON THE**

SIGNATURE LINE AT THE BOTTOM OF THE PAGE.

(1997 Code, ' 13-217) (Ord. 504, adopted 7-3-1991; Ord. 807, adopted 3-7-2012; Ord. 847, FEES adopted 1-18-2017)

**' 13-218 VIOLATIONS.**

Any property owner, person or contractor who constructs any sidewalk in violation of this article shall be guilty of a misdemeanor; provided, that the sidewalk may be condemned by the governing body and torn out and replaced and in the case of the contractor no payment shall be due or made for such improperly constructed sidewalk. If the governing body believes the sidewalk as constructed is as good as a sidewalk meeting the required specifications of the city for such work, it may accept the sidewalk as constructed and such action shall relieve the property owner, persons or contractor of the penalty herein imposed.

(1997 Code, ' 13-218)



## ARTICLE 3: STREETS

### Section

- 13-301 Excavation permit
- 13-302 Same; bond
- 13-303 Same; deposit and restoration
- 13-304 Same; filed
- 13-305 Same; barricades
- 13-306 Same; unlawful acts
- 13-307 Cutting curbs; pavement
- 13-308 Altering drainage
- 13-309 Unfinished pavement
- 13-310 Using streets
- 13-311 Dangerous objects in
- 13-312 Petroleum products in streets
- 13-313 Discharging water on streets
- 13-314 Burning in streets
- 13-315 Throwing in streets
- 13-316 Hauling loose material
- 13-317 Obstructing street or sidewalk
- 13-318 Cost sharing for street curbs

#### ' 13-301 EXCAVATION PERMIT.

(a) 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.

(b) Persons permitted are responsible for repairing any and all damage caused as a result of their actions. The Street Department shall provide the materials to make minor repairs.

(1997 Code, ' 13-301)

#### ' 13-302 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.

(1997 Code, ' 13-302)

**' 13-303 SAME; DEPOSIT AND RESTORATION.**

(a) Before any permit shall be issued there shall be deposited with the City Clerk the sum of \$20 per square yard of pavement cut as liquidated damages to be used for the replacement of pavement by the city. The sum of \$20 shall be deposited for excavations in unpaved streets to secure the city the property restoration of such street.

(b) The street shall be restored to first class condition, and when the restoration has been approved by the Street Superintendent, the amount deposited less any charge for work restored by the city shall be returned to the permittee upon application therefor.

(c) If the street is not properly restored, the Street Superintendent shall give the person holding the permit a notice, stating that if the street is not properly restored within three days, the work will be done by the city. Upon the expiration of three days the Street Superintendent shall proceed to have the work done, and shall report to the City Clerk the cost of doing such work, and such amount shall be deducted from the deposit as liquidated damages. The City Clerk shall refund the balance upon application by the holder of the permit. If the deposit is insufficient to pay the cost of restoration no further permits shall be issued to the person until the full cost of the restoration in the instant case has been paid.

(1997 Code, ' 13-202A) (Ord. 847, FEES adopted 1-18-2017)

**' 13-304 SAME; FILED.**

If the application is approved by the city, the City Clerk shall issue a permit upon payment of a fee of \$5. Each permit issued under the provisions of this section shall cover only one specified excavation.

(1997 Code, ' 13-303)

**' 13-305 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.

(1997 Code, ' 13-304)

**' 13-306 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.

(1997 Code, ' 13-305)

**' 13-307 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.

**' 13-308 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.

(1997 Code, ' 13-306)

**' 13-309 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.

(1997 Code, ' 13-307)

**' 13-310 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.

(1997 Code, ' 13-308)

**' 13-311 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.

(1997 Code, ' 13-309)

**' 13-312 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.

(1997 Code, ' 13-310)

**' 13-313 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.

(1997 Code, ' 13-311)

**' 13-314 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.

(1997 Code, ' 13-312)

**' 13-315 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.

(1997 Code, ' 13-313)

**' 13-316 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.

(1997 Code, ' 13-314)

**' 13-317 OBSTRUCTING STREET OR SIDEWALK.**

(a) It shall be unlawful for any person to cause, create or maintain any obstruction on any street, alley, sidewalk or the public way, except as may be specified by ordinance or be necessitated by public improvements.

(b) It shall be unlawful to erect, place or maintain any booth, stand, gasoline pump, air station, furniture, bench or similar structure or device upon any street, alley or sidewalk in the city, except as may be specified by ordinance.

(1) The provisions of this article prohibiting the obstruction of any street, alley or sidewalk shall not be applicable to any fence, barricades, scaffold, sidewalk shed or walkway erected and maintained in accordance with the provisions of the Building Code or other ordinances of the city.

(2) The following events or occurrences otherwise restricted by the provisions of this article shall be excepted therefrom by action of the governing body at any regular or specially called public meeting thereof, whether such event or occurrences shall qualify as one of the following: the public sale of merchandise sponsored by an organization recognized by the governing body. Streets and sidewalks may be used during such sale by any merchant endorsed by the organization sponsoring such sale. Approval of the governing body shall be conditioned upon obtaining permission from the proper authority for temporary closing of any street or highway. The sale shall be of no more than three days duration. The governing body shall exercise discretion regarding the number of times per calendar year it authorizes this exception.

(1997 Code, ' 13-315) (Ord. 522, adopted 5-6-1992)

**' 13-318 COST SHARING FOR STREET CURBS.**

(a) Street curbs will be on a cost-sharing basis with the city paying \$10 per linear foot of each individual street curb project. Curbs must be compatible with the street and drainage in the area. If tubing is necessary, it will be the responsibility of the property owner(s) to purchase and install. Applications will be acted upon on a first-come, first-serve basis by the City Clerk's office. Curbs shall be constructed to city specifications as provided by the Street Superintendent who is the City Street Curb Construction Inspector; and any questions on the construction of street curbs should be referred to the Street Superintendent.

(b) Items to be submitted to the City Clerk for verification of project completion:

(1) The frontage of the lot; and

(2) Invoices for work and/or materials.  
(City Council meeting minutes approved 3-21-2001)



## ARTICLE 4: TREES AND SHRUBS

### Section

- 13-401 Definitions
- 13-402 Street tree species to be planted
- 13-403 Spacing
- 13-404 Distance from the curb and sidewalk
- 13-405 Distance from street corner and fireplugs
- 13-406 Utilities
- 13-407 Public tree care
- 13-408 Tree topping
- 13-409 Pruning, corner clearance
- 13-410 Dead or diseased tree removal on private property
- 13-411 Trees on public property
- 13-412 Costs on tax rolls
- 13-413 Injuring trees and shrubs
- 13-414 Removal of stumps
- 13-415 Interference with City Tree Board
- 13-416 Arborist license and bond
- 13-417 Review by governing body
- 13-418 Penalty
- 13-419 Severance

### 13-401 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***PARK TREES.*** Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

***STREET TREES.*** Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or alleyways within the city.  
(Ord. 789, adopted 9-16-2009)

**13-402 STREET TREE SPECIES TO BE PLANTED.**

The city shall maintain a list of preferred tree species for planting in public areas. This list is adopted by reference as set out in full herein and is also available to residents of the city upon request to aid in the selection of trees for private properties. The list of recommended trees shall be periodically updated to reflect new developments or species that will affect the population of the community forest. A file of past approved preferred tree list will be maintained at City Hall. No species other than those included in this list may be planted as street trees without written permission of the City Tree Board.  
(Ord. 789, adopted 9-16-2009)

**13-403 SPACING.**

(a) The suggested spacing of street trees will be in accordance with the three species size classes established by the Tree Board, and trees should not be planted closer together than the following:

- (1) Small trees: 30 feet;
- (2) Medium trees: 40 feet; and
- (3) Large trees: 50 feet.

(b) Special plantings may be approved by the City Zoning Clerk or by the Tree Board.  
(Ord. 789, adopted 9-16-2009)

**13-404 DISTANCE FORM THE CURB AND SIDEWALK.**

The distance trees may be planted from the curbs or curb lines and sidewalks shall be no closer than five feet to any curb or sidewalk, regardless of the tree species. Special tree plantings must be approved by the City Zoning Clerk or by the Tree Board.  
(Ord. 789, adopted 9-16-2009)

**13-405 DISTANCE FROM STREET CORNER AND FIREPLUGS.**

No street tree shall be planted closer than 35 feet of any street corner, measured from the point of the nearest intersecting curb or curb lines. No street tree shall be planted closer than ten feet of any fire hydrant. Special plantings may be approved by the City Zoning Clerk or by the Tree Board.  
(Ord. 789, adopted 9-16-2009)

**13-406 UTILITIES.**

No street trees, other than those species listed on the Tree Board preferred tree list, may be planted laterally under or within the following distance of any overhead utility wire:

- (a) Small trees: 15 feet; and

(b) Medium /large trees: 30 feet; or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility.

(Ord. 789, adopted 9-16-2009)

‘ **13-407 PUBLIC TREE CARE.**

The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within rights-of-way or bounds of all streets, alleys, lanes, squares and public grounds, as may be necessary to ensure the public safety or to preserve or enhance the beauty of such public grounds. The Tree Board 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 seriously affected with any injurious insect or disease. The abutting property owners shall have the right to perform normal tree care on all street trees.

(Ord. 789, adopted 9-16-2009)

‘ **13-408 TREE TOPPING.**

It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree or other tree on public property. *TOPPING* is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree=s crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, and certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this section at the determination of the Tree Board.

(Ord. 789, adopted 9-16-2009)

‘ **13-409 PRUNING, CORNER CLEARANCE.**

Clearance over streets and walkways shall be the responsibility of the abutting property owner. A clearance of eight feet must be maintained over walkways and a clearance of 12 feet must be maintained over streets. Property owners are responsible for trees on their own property as well as trees on the public way that abuts their property.

(Ord. 789, adopted 9-16-2009)

‘ **13-410 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.**

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a threat to other trees within the city. The City Tree Board 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. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal on the property owner=s tax notice.

(Ord. 789, adopted 9-16-2009)



**' 13-411 TREES ON PUBLIC PROPERTY.**

The city shall have the authority to treat or remove any tree defined in ' 13-401, or to remove any dead tree as mentioned herein, which is located within the city. When a report is filed with the City Clerk identifying a tree to be treated or removed which is located within the limits of any public right-of-way within the city, the city=s designated agent shall inform the adjacent property owner or agent that the city plans to remove the tree and ensure the tree and stump are removed.

(Ord. 789, adopted 9-16-2009)

**' 13-412 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 ' 13-410 and the County Clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. In addition to the actual costs certified to the County Clerk, the City Clerk shall assess an administrative fee for each such set of costs. 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 are received or when such assessments are collected and received by the city.

(Ord. 789, adopted 9-16-2009)

**' 13-413 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 manipulate 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 or park in the city.

(Ord. 789, adopted 9-16-2009)

**' 13-414 REMOVAL OF STUMPS.**

All stumps of street and park trees should be removed below the surface of the ground so that the top of the stump will not project above the surface of the ground.

(Ord. 789, adopted 9-16-2009)

**' 13-415 INTERFERENCE WITH CITY TREE BOARD.**

It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning spraying or removing of any trees authorized by the City Tree Board.

(Ord. 789, adopted 9-16-2009)

**' 13-416 ARBORIST LICENSE AND BOND.**

It shall be unlawful for any person or firm to engage in the business or occupation of pruning or treating, or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the city without first applying for and procuring a license. The license fee shall be \$25 annually in advance; provided, however, that no license shall be required of any public service company or city employee doing such work required of any public service company or city employee doing such work in pursuit of his or her public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of and \$50,000 property damage indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

(Ord. 789, adopted 9-16-2009)

**‘ 13-417 REVIEW BY GOVERNING BODY.**

The city governing body shall have the right to review the conduct, acts and decisions of the City Tree Board. Any person may appeal from any ruling or order of the City Tree Board to the governing body who may hear the matter and make final decision.

(Ord. 789, adopted 9-16-2009)

**‘ 13-418 PENALTY.**

Any person violating any provision of this article shall be, upon conviction or a plea of guilty, subject to a fine not to exceed \$500. In a prosecution under this article, each tree removed, damaged or destroyed will constitute a separate offense.

(Ord. 789, adopted 9-16-2009)

**‘ 13-419 SEVERANCE.**

The provisions of this article are declared to be separable; and if any section, sentence, clause or phrase of this article, shall for any reason be held invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this article, but they shall remain in effect, it being the legislative intent of the governing body that this article shall stand notwithstanding the invalidity of any part.

(Ord. 789, adopted 9-16-2009)



## ARTICLE 5: SNOW AND ICE

### Section

- 13-501 Snow and ice to be removed
- 13-502 Same: exception; alternate remedy
- 13-503 Same; penalty
- 13-504 Removal may be made by city
- 13-505 Costs on tax rolls

#### ' 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.

#### ' 13-502 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.

#### ' 13-503 SAME; PENALTY.

Any person violating the provisions of ' 13-501 shall, upon conviction, be fined \$25.

#### ' 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 ' 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 therefor are received or when such assessments are collected and received by the city.

## ARTICLE 6: ALLEYS

### Section

#### 13-601 Alley Maintenance Policy

#### ' 13-601 ALLEY MAINTENANCE POLICY.

(a) *Alley maintenance: rock, gravel, grading.*

(1) Alleys are included in the Street Department scope.

(2) Alley damage by contractor or company (gas, telephone, television, fiberoptics and the like):

(A) It is the responsibility of the contractor/company to repair the alley back to as good or better than it was when they began work in that alley; and

(B) City departments will repair any alley they dug up back to as good or better than it was when they began work in that alley.

(3) Alley that is inaccessible:

(A) If a non-graveled alley is inaccessible, the Street Department will grade the alley as time permits; and

(B) The Street Department will not add rock.

(4) Alleys without rock:

(A) Initial investment and delivery of rock will be responsibility of the landowner;

(B) The city will spread/grade the rock the first time; and

(C) The Street Committee will review maintenance request on a case by case basis.

(5) Alleys that already have rock paid for by landowner:

(A) The Street Department will re-grade alleys upon request as time permits; and

(B) The Street Committee will review rock addition requests.

(6) Alleys in commercial areas:

(A) Alleys with high traffic use and high erosion will be hot mixed to handle the traffic in commercial areas; and

(B) The Street Committee will review alley upgrade requests on a case by case basis.

(b) *Alley maintenance: vegetation.*

(1) Property owners are responsible to mow and weedat alleys and ditches abutting their property.

(2) Ord. 783, ' 1 states AIt shall be unlawful for any owner, agent, lessee, tenant or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private. All weeds as hereinafter defined are hereby declared a nuisance and are subject as hereinafter provided.@

(Ord. 783, adopted 4-15-2009; Alley Maintenance Policy - Council Motion 11-16-2001)

## ARTICLE 7: STREETS SIGNS

### Section

13-701 Street Signs; Special or Additional

#### **13-701 STREET SIGNS; SPECIAL OR ADDITIONAL.**

(a) Requests for special or additional signs may be made by the residents of the city, in particular, signs that indicate a dangerous location, children playing or other safety issues.

(b) Requests shall be in writing.

(c) Requests must represent a majority opinion of the residents in that area. The written request shall be deemed to have a majority opinion if the request has the original ink signatures of 51% or more of the residents who live within one city block of the proposed location of the requested sign.

(d) Requests will be considered on a case by case basis, upon the recommendation of the Chief of Police and Street Superintendent.

(e) Requests must be considered on some special circumstance, such as hills, curves or other dangerous circumstances.

(f) Requests that receive the positive recommendation of both the Chief of Police and Street Superintendent will be forwarded, with those recommendations, to the City Council, for Council action. (City Council motion 5-22-2002)



