

CHAPTER XIII. STREETS AND SIDEWALKS

Article 1. Sidewalks

Article 2. Streets

Article 3. Tree Boards; Trees and Shrubs

ARTICLE 1. SIDEWALKS

- 13-101. **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 governing body and a permit issued for such work by the city clerk. (Code 1986)
- 13-102. **SIDEWALK GRADE.** Hereafter all sidewalks constructed or reconstructed in the city shall be constructed on the established grade. When the mayor and council 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 street superintendent 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 1986)
- 13-103. **SAME; PETITION.** When a petition signed by not less 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 1986)
- 13-104. **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 1986)
- 13-105. **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; Code 1986)
- 13-106. **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 1986)

- 13-107. **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 so repaired as may be provided by law. (K.S.A. 12-1808; Code 1986)
- 13-108. **PERFORMANCE, STATUTORY BOND.** In any case where the reconstruction or construction of a sidewalk is required to be done by contract as provided in section 13-106 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 Kansas, 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. 60-141 shall be furnished. (Code 1986)
- 13-109. **OBSTRUCTING SIDEWALKS, STREET AND ALLEYS.** It shall be unlawful for any person or firm to build or construct any pipe, 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, mailboxes on any sidewalks or City right of way or easement in the City or to obstruct the same longer than is necessary for loading or unloading any such article or object. (Ordinance 887 – 6/06/1998)
- 13-110. **SAME; EXCEPTION.** The council 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 city council. (Code 1986)

ARTICLE 2. STREETS

- 13-201. **EXCAVATION PERMISSION.** 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 permission for such excavation. Application shall be made to the city clerk or city utilities superintendent. (Code 1986)

- 13-202. SAME; BARRICADES. Any person to whom an excavation permission is given shall enclose all excavations which they make with sufficient barricades and danger signs at all times, and shall maintain sufficient warning lights or flares at nighttime. The holder of an excavation permission shall take all necessary precautions to guard the public against all accidents from the beginning of the work to the completion of the same. (Code 1986)
- 13-203. CUTTING CURBS; PAVEMENT. No person shall cut any curb, gutter, pavement, blacktop, sidewalk or excavate any street, alley or other public grounds of the city for any purpose without first obtaining permission authorizing the same from the city clerk.
- (b) Once the work for which the excavation was made has been completed the city shall restore the pavement, blacktop, sidewalk or other surfacing at the expense of the person from whom the excavation was made.
 - (c) In lieu of the city replacing pavement, it may elect to authorize utility companies or contractors to resurface streets or sidewalks with like materials, subject to approval of the street superintendent.
- (Code 1986)
- 13-204. DRIVEWAY ENTRANCES. The city hereby adopts "Driveway Control Standard Plans and Regulations of the State of Kansas" State Highway Commission, the plans being on file in the city clerk's office. (Ord. 662, Sec. 1)
- 13-205. ALTERING DRAINAGE. No person shall change or alter any gutter, storm sewer, drain or drainage structure which has been constructed, or is being lawfully maintained or controlled by the city unless such change or alteration has been authorized or directed by the governing body. (Code 1986)
- 13-206. 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 ward the traveling public of any construction work thereon or adjacent thereto. (Code 1986)
- 13-207. UNFINISHED PAVEMENT. No person shall walk upon, drive or ride over or across any pavement, sidewalk or incomplete grading which has not been opened for traffic. (Code 1986)
- 13-208. 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 permission 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 waiving the prohibition of this subsection in connection with community pro-

motions or community-wide celebrations when such waiver is considered to be in the best interest of the city.

(Code 1986)

- 13-209. **DANGEROUS OBJECTS IN.** It shall be unlawful for any person to place, throw or cause to be placed or thrown in or on any street, alley, sidewalk or other public grounds of the city, any glass, tacks, nails, bottles, wire or other dangerous objects that might wound any person or animal, or cut or puncture any pneumatic tire while passing over the same. (Code 1986)
- 13-210. **PETROLEUM PRODUCTS IN STREETS.** It shall be unlawful for any person, firm or corporation to deposit or throw any waste oil, fuel oil, kerosene, gasoline or other products of petroleum or any acids into or upon any street or public grounds of the city, or willfully to permit the same to be spilled, dripped or otherwise to come into contact with the surface of any street, alley, or sidewalk within the city. (Code 1986)
- 13-211. **DISCHARGING WATER ON STREETS.** It shall be unlawful for any person, firm or corporation to throw or discharge water into any ditch, street, avenue or alley in the city or to cause any water to stand or form pools or to flow in a stream thereon. This section shall not apply to persons cleaning or flushing such streets, avenues or alleys under the authority of the governing body, nor to members of the fire department. (Code 1986)
- 13-212. **BURNING IN THE STREETS.** It shall be unlawful for any person to make or cause to be made, any fire upon any of the paved streets, alleys, or street intersections within the city. (Code 1986)
- 13-213. **THROWING IN STREETS.** It shall be unlawful to throw or bat any ball, stone, or other hard substance into, on or across any street or alley or at or against any building or vehicle. (Code 1986)
- 13-214. **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 having a tight box so constructed as to prevent the splashing or spilling of any of the substances therein contained upon the streets or alleys. (Code 1986)
- 13-215. **OBSTRUCTING RAIL CROSSING.** It shall be unlawful for any railroad company or any person operating a railroad in the city to allow its trains, engines or cars to stand upon any crossing or street in excess of 10 minutes at any one time without leaving an opening in the traveled portion of the street or crossing of at least 30 feet wide. (Code 1986)
- 13-216. **TRAIN CREW; WARNING.** It shall be unlawful for the conductor or engineer of any train, engine or moving cars not preceded by an engine to cross any street, alley or public place without causing a person to be stationed upon the end of the first car or at the crossing to warn of the approaching cars. (Code 1986)

- 13-217. ENCROACHMENTS. (a) It shall be unlawful, except as hereinafter provided, for any person, firm, or corporation 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 or portions of street:
- (1) Avenue "A" (U.S. Highway 50) from Pine Street to Seventh Street.
 - (2) Main Street (Kansas Highway 23) from city limit.
- (b) The word encroachment when used in this section 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 or any portion thereof of a public street.
- (c) Whenever any encroachment exists in violation of the provisions of this section, the governing body shall direct the city clerk to forthwith issue 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 his or her 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, and the same shall be certified to the county clerk for collection as in other cases.
- (Ord. 638, Sec. 1, 2, 4)

- 13-218. MANURE AND URINE SPILLAGE. (a) Spillage from trucks and trailers hauling livestock creates a public nuisance on the streets of the city in that the spillage is slippery and causes both pedestrians and vehicles to slide, causing accidents. Spillage is further a nuisance to the health of the citizens.
- (b) It shall be the duty of a person operating a truck and also the person who owns a truck which spills manure and urine on the streets of the city to provide for immediate cleanup of spillage coming from the truck.
- (c) In lieu of immediately cleaning up the street, payment for cleanup shall be made to the city in an amount between \$100 and \$250 to be set by the municipal judge as determined by the amount of spillage and difficulty of cleanup.
- (d) All persons found guilty of violating this section shall be fined not more than \$100 in addition to the payment of cleanup charges as assessed.
- (Ord. 820, Secs. 1:4)

Ord. 861 – 01/03/94:

AN ORDINANCE RELATING TO COMMERCIAL TRUCKS, TRAILERS AND CAMPERS AND OTHER RECREATIONAL VEHICLES; PROVIDING PARKING REGULATIONS AND PROVISION; REQUIRING CERTAIN TRUCKS TO FOLLOW TRUCK ROUTES. [See Chapter XIV Traffic, Article 2. Local Traffic Regulations]

Ord. 894 – 11/08/99:

AN ORDINANCE ESTABLISHING PROCEDURES FOR EXTENSIONS OF UTILITIES AND CITY SERVICES AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CIMARRON, KANSAS, THAT:

Section 1. Streets. The extension of streets shall be at the expense of the landowner or subdivider, which shall include bringing the street to an approved grade and providing ditches and storm outlets. The surface material and the grade must receive the prior approval of the City Council.

[See Section 2 at 15-107]

ARTICLE 3. TREE BOARD; TREES AND SHRUBS

- 13-301. TREE BOARD ESTABLISHED. There is hereby established a City Tree Board for the city which shall consist of five members, who are citizens and residents of this city, and who shall be appointed by the mayor with the approval of the city council. (Ord. 694, Sec. 2)
- 13-302. TERM OF OFFICE. The term of the five persons to be appointed by the mayor shall be three years except that the term of two of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term. (Ord. 694, Sec. 3)
- 13-303. COMPENSATION. Members of the board shall serve without compensation (Ord. 694, Sec. 4)
- 13-304. BOARD DUTIES, FUNCTIONS. (a) It shall be the responsibility of the board to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the governing body and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the city.
- (b) The board, when requested by the governing body shall consider, investigate, make a finding, report and recommend upon any special matter or question coming within the scope of its work.
- (c) The board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. (Ord. 694, Sec. 5:6)

- 13-305. STREET, PARK TREES. (a) Street trees are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the city.
- (b) Park trees are herein defined as 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. (Ord. 694, Sec. 1)
- 13-306. STREET TREES; LIST. A list of preferred and recommended street trees species, which shall consist of small, medium and large trees shall be established from time to time by the City Tree Board, and a copy of the current list shall be maintained in the City Office and the Gray County Extension Council and copies of the list shall be provided without charge to persons requesting the same.
- 13-307. SPACING. The spacing of street trees will be in accordance with the three species size classes listed in the "Street Tree; List" section of this article, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet. (Ord. 694, Sec. 8 as amended by Ord. 827)
- 13-308. RESTRICTIONS. (a) Curbs. The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the "Street Trees; List" size classes; no trees may be planted closer to any curb or sidewalk than the following: small trees, two feet; medium trees, three feet; and large trees, four feet.
- (b) Intersections. On a corner lot in any residential district, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and a half (2 ½) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines fifty (50) feet from the point of the intersection. No street tree shall be planted closer than 10 feet of any fireplug. (See 13-310)
- (c) Alleys. No street trees shall be planted within 15 feet of the center of the alley. The branches shall not extend within 10 feet of the center of an alley.
- (d) Right-of-ways other than alleys. No street trees other than those species listed as small trees in the "Street Trees; List" may be planted under or within 10 lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility.
- 13-309. PUBLIC TREE CARE. The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure safety when servicing city utilities or to preserve the symmetry and beauty of such public grounds. The city 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 affected with any injurious fungus, insect or other pest. (Ord. 694, Sec. 12)

13-310. **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 eight feet above the surface of the street or right-of-way. The owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any trees 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 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 potential 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 owners' property tax notice. (Ord. 694, Sec. 13:14)

13-311. **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, or servants, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this article. (Ord. 694, Sec. 15)

13-312. **ARBORISTS PERMIT AND BOND.** It shall be unlawful for any person or firm to engage in the business or occupation of trimming, pruning, treating, or removing street or park trees within the city without first applying for and procuring a permit. No permit fee shall be required. Before any permit shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$100,000 for bodily injury and \$25,000 property damage indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described. No insurance shall be required of any public service company or city employee doing such work in the pursuit of their public service employment. No insurance shall be required of a person doing such work on his own property. (Ord. 694, Sec. 16 as amended by Ord. 827)

13-313. **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 (3) inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or 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.

(Ordinance 862 – 3/07/1994)