

CHAPTER XIII: STREETS AND SIDEWALKS

Article

- 1. SIDEWALKS**
- 2. STREETS**
- 3. TREES AND SHRUBS**
- 4. SNOW AND ICE**
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WaKeeney - Streets and Sidewalks

ARTICLE 1: SIDEWALKS

Repealed by Ord. 1433, passed 1-21-2014

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ARTICLE 2: STREETS

Section

- 13-201 Excavation permit
- 13-202 Same; bond
- 13-203 Same; filed
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- 13-205 Same; unlawful acts
- 13-206 Cutting curbs; pavement
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- 13-208 Unfinished pavement
- 13-209 Using streets
- 13-210 Dangerous objects in
- 13-211 Petroleum products in streets
- 13-212 Discharging water on streets
- 13-213 Burning in streets
- 13-214 Throwing in streets
- 13-215 Hauling loose material

§ 13-201 EXCAVATION PERMIT.

No person, other than authorized city employees, shall dig or excavate any hole, ditch, trench or tunnel in or under any street, alley, sidewalk, park or other public property or public easement through private property without first having secured a permit for such excavation. Application shall be made to the City Clerk/Administrator.

§ 13-202 SAME; BOND.

(a) No permit authorized in this article shall be issued until the applicant has given to the city a good and sufficient bond in the sum of \$5,000, conditioned that the applicant will faithfully comply with all the terms and conditions of this article, and will indemnify and hold the city harmless against all costs, expenses, damages and injuries by persons or by the city sustained by reason of the carelessness or negligence of the permit holder. No bond for this purpose shall run for longer than two years without being renewed. The bond shall remain in full force and effect as to each excavation for two years after the same has been made or completed.

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(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/Administrator.

§ 13-203 SAME; FILED.

If the application is approved by the city, the City Clerk/Administrator 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.

§ 13-204 SAME; BARRICADES.

Any person to whom an excavation permit is issued shall enclose all excavations that he or she make with sufficient barricades and danger signs at all times, and shall maintain sufficient warning lights or flares at nighttime. The holder of an excavation permit shall take all necessary precautions to guard the public against all accidents from the beginning of the work to the completion of the same.

§ 13-205 SAME; UNLAWFUL ACTS.

It shall be unlawful for any person, except those having authority from the city or any officer thereof to throw down, interfere with or remove any barriers, barricades or lights placed in any street to guard and warn the traveling public of any construction work thereon or adjacent thereto.

§ 13-206 CUTTING CURBS; PAVEMENT.

(a) No person shall cut any curb, gutter, pavement, blacktop or sidewalk, or excavate any street, alley or other public grounds of the city for any purpose without first obtaining a permit authorizing the same from the City Clerk/Administrator.

(b) Once the work for which the excavation was made has been completed, the city shall restore the pavement, blacktop, sidewalk or other surfacing at the expense of the person from whom the excavation was made.

(c) In lieu of the city replacing pavement, it may elect to authorize utility companies or contractors to resurface streets or sidewalks with like materials, subject to approval of the Street Superintendent.

§ 13-207 ALTERING DRAINAGE.

No person shall change or alter any gutter, storm sewer, drain or drainage structure that has been constructed or is being lawfully maintained or controlled by the city, unless such change or alteration has been authorized or directed by the governing body.

Streets

§ 13-208 UNFINISHED PAVEMENT.

No person shall walk upon, drive or ride over or across any pavement, sidewalk or incomplete grading that has not been opened for traffic.

§ 13-209 USING STREETS.

(a) No person shall occupy any portion of any street, alley or sidewalk for the purpose of temporarily storing building materials without first obtaining a permit for such temporary use from the governing body.

(b) No person may use any portion of any sidewalk or street right-of-way for the purpose of displaying or offering for sale wares, goods, merchandise or other items. Nothing in this article, however, shall be construed as prohibiting the city governing body from temporarily waiving the prohibition of this division (b) in connection with community promotions or community-wide celebrations when such waiver is considered to be in the best interest of the city.

§ 13-210 DANGEROUS OBJECTS IN.

It shall be unlawful for any person to place, throw or cause to be placed or thrown in or on any street, alley, sidewalk or other public grounds of the city, any glass, tacks, nails, bottles, wire or other dangerous objects that might wound any person or animal, or cut or puncture any pneumatic tire while passing over the same.

§ 13-211 PETROLEUM PRODUCTS IN STREETS.

It shall be unlawful for any person, firm or corporation to deposit or throw any waste oil, fuel oil, kerosene, gasoline or other products of petroleum or any acids into or upon any street or public grounds of the city, or willfully to permit the same to be spilled, dripped or otherwise to come into contact with the surface of any street, alley or sidewalk within the city.

§ 13-212 DISCHARGING WATER ON STREETS.

It shall be unlawful for any person, firm or corporation to throw or discharge water into any ditch, street, avenue or alley in the city or to cause any water to stand or form pools or to flow in a stream thereon. This section shall not apply to persons cleaning or flushing such streets, avenues or alleys under the authority of the governing body, nor to members of the Fire Department.

§ 13-213 BURNING IN STREETS.

It shall be unlawful for any person to make, or cause to be made, any fire upon any of the paved streets, alleys or street intersections within the city.

WaKeeney - Streets and Sidewalks**§ 13-214 THROWING IN STREETS.**

It shall be unlawful to throw or bat any ball, stone or other hard substance into, on or across any street or alley or at or against any building or vehicle.

§ 13-215 HAULING LOOSE MATERIAL.

It shall be unlawful to haul over the streets or alleys of this city any loose material of any kind except in a vehicle so constructed or maintained as to prevent the splashing or spilling of any of the substances therein contained upon the streets or alleys.

ARTICLE 3: TREES AND SHRUBS

Section

- 13-301 Public tree care
- 13-302 Diseased trees; determination
- 13-303 Same; notice served
- 13-304 Same; failure of owner; duty of city
- 13-305 Same; prevent spread of disease
- 13-306 Dangerous, dead or diseased trees on private property
- 13-307 Trees on public property; cost borne by city
- 13-308 Costs on tax rolls
- 13-309 Injuring trees and shrubs
- 13-310 Fire hydrants, plantings adjacent to

§ 13-301 PUBLIC TREE CARE.

(a) The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds as may be necessary to ensure safety when servicing city utilities or to preserve the symmetry and beauty of public grounds.

(b) The city may remove or cause or order to be removed, any tree or part thereof that is in an unsafe condition or, by reason of its nature, is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest.

§ 13-302 DISEASED TREES; DETERMINATION.

Whenever any competent city authority or competent state or federal authority shall file with the governing body a statement in writing based upon a laboratory test or other supporting evidence that trees or tree materials or shrubs located upon private property within the city are infected or infested with or harbor any tree or plant disease or insect or larvae, the uncontrolled presence of which may constitute a hazard to or result in the damage or extinction of other trees or shrubs in the community, describing the same and where located, the governing body shall direct the City Clerk/Administrator to forthwith issue notice requiring the owner or agent of the owner of the premises to treat or to remove any such designated tree, tree material or shrub within a time specified in the notice.

WaKeeney - Streets and Sidewalks**§ 13-303 SAME; NOTICE SERVED.**

Notice shall be served by a police officer by delivering a copy thereof to the owner and the person in possession of such property, or if the same be unoccupied or the owner a nonresident of the city, then the City Clerk/Administrator shall notify the owner by mailing a notice by certified mail to his or her last known address.

§ 13-304 SAME; FAILURE OF OWNER; DUTY OF CITY.

If the owner or agent shall fail to comply with the requirements of the notice within the time specified in the notice, then the Chief of Police shall proceed to have the designated tree, tree material or shrub, treated or removed and report the cost thereof to the City Clerk/Administrator. In lieu of city employees performing any such work, the governing body may contract with any competent person, company or corporation for the performance of such work.

§ 13-305 SAME; PREVENT SPREAD OF DISEASE.

No tree, tree materials or shrubs as mentioned herein that have been cut down, either by the property owner or by the city, shall be permitted to remain on the premises, but shall be immediately treated, removed and burned or immediately burned upon the premises, if safe to do so, so as to prevent the spread of the tree disease.

§ 13-306 DANGEROUS, DEAD OR DISEASED TREES ON PRIVATE PROPERTY.

(a) Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 14 feet above the surface of the street or right-of-way. The owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs that constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic-control device or sign.

(b) The city shall have the right to cause the removal of any dangerous, dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property. The city will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. The owners, within 30 days of the notice, may request a hearing covering the ordered removal. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove the trees and charge the cost of removal on the owner's property tax notice.

§ 13-307 TREES ON PUBLIC PROPERTY; COST BORNE BY CITY.

Trees and Shrubs

The city shall have the authority to treat or to remove any tree as defined in § 13-301, or to remove any dead tree as mentioned herein, which is located within the limits of any public right-of-way within the city. The adjacent property owners shall not be responsible for the cost of treatment or removal of any such trees within the public right-of-way and this expense shall be borne by the city at large.

§ 13-308 COSTS ON TAX ROLLS.

The City Clerk/Administrator shall, at the time of certifying other city taxes to the County Clerk, certify the unpaid costs for treatment or removal performed under the authority of §§ 13-304 to 13-306 and the County Clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The cost of such work shall be paid from the General Fund or other proper fund of the city, and such fund shall be reimbursed when payments therefor are received or when such assessments are collected and received by the city.

§ 13-309 INJURING TREES AND SHRUBS.

No person shall willfully break, cut, take away, destroy, injure, mutilate or attempt to willfully break, cut, take away, destroy, injure or mutilate any tree, shrub, vine, flower or landscaping standing, growing, or being upon the premises in the possession of another, or growing on any public ground, street, sidewalk, promenade or park in the city.

§ 13-310 FIRE HYDRANTS, PLANTINGS ADJACENT TO.

No person shall plant, or cause to be planted, nor allow to grow upon property owned by him or her any shrubs, trees or planting of any kind within ten feet of any fire hydrant in the city, in order that every fire hydrant shall be in full view day or night to fire apparatus approaching from any direction.

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ARTICLE 4: SNOW AND ICE

Section

- 13-401 Snow and ice to be removed
- 13-402 Same: exception; alternate remedy
- 13-403 Same; penalty
- 13-404 Removal may be made by city
- 13-405 Costs on tax rolls

§ 13-401 SNOW AND ICE TO BE REMOVED.

(a) (1) 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 six hours from the time that the snow fall or ice storm ceases only in the downtown area designated as the Fire District.

(2) If the snow falls or ice accumulates upon the sidewalks in the night time, removal of same must be made within four 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.

(Ord. 1230, passed - -)

§ 13-402 SAME: EXCEPTION; ALTERNATE REMEDY.

Where there shall be ice or compacted snow on any such sidewalk of such a character as to make it practically impossible to remove the same, the sprinkling of ashes, sand or other noncorrosive chemicals on the accumulation of ice or snow in such a manner as to make such sidewalk reasonably safe for pedestrian travel shall be deemed a sufficient compliance with the provisions of this article until the ice or snow can be removed.

§ 13-403 SAME; PENALTY.

Any person violating the provisions of § 13-301 shall, upon conviction, be fined not less than \$50 nor more than \$100.

(Ord. 1230, passed - -)

§ 13-404 REMOVAL MAY BE MADE BY CITY.

If any owner or occupant of any lot or lots shall refuse or neglect to clean or remove from the sidewalk abutting the lot or lots all snow and ice within the time specified, the city may cause such snow and ice to be removed from sidewalks and the cost thereof shall be assessed against such abutting lot or lots, and the City Clerk/Administrator shall certify the same to the County Clerk for collection as provided by law.

§ 13-405 COSTS ON TAX ROLLS.

The City Clerk/Administrator shall, at the time of certifying other city taxes to the County Clerk, certify the unpaid costs for removal of snow or ice performed under the authority of § 13-404 and the County Clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The cost of such work shall be paid from the General Fund or other proper fund of the city, and such fund shall be reimbursed when payments therefor are received or when such assessments are collected and received by the city.

ARTICLE 5: TREE BOARD

Section

- 13-501 Definitions
- 13-502 Creation and establishment of a City Tree Board
- 13-503 Term of office
- 13-504 Compensation
- 13-505 Duties and responsibilities
- 13-506 Operation
- 13-507 Street tree species to be planted
- 13-508 Spacing
- 13-509 Distance from curb and sidewalk
- 13-510 Public tree care
- 13-511 Permits required
- 13-512 Tree topping
- 13-513 Pruning, corner clearance
- 13-514 Dead or diseased tree removal on private property
- 13-515 Removal of stumps
- 13-516 Interference with City Tree Board
- 13-517 Arborists license and bond
- 13-518 Review by City Council

§ 13-501 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 street, avenues or ways within the city.
(Ord. 1293, passed - -)

§ 13-502 CREATION AND ESTABLISHMENT OF A CITY TREE BOARD.

Repealed

§ 13-503 TERM OF OFFICE.

Repealed

§ 13-504 COMPENSATION.

Repealed

§ 13-505 DUTIES AND RESPONSIBILITIES.

Repealed

§ 13-506 OPERATION.

Repealed

§ 13-507 STREET TREE SPECIES TO BE PLANTED.

The city shall maintain a list of recommended trees for planting in public areas. This list shall be 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 updated periodically to reflect new developments or species that will affect the population of street and park trees.

(Ord. 1293, passed - -)

§ 13-508 SPACING.

The spacing of street trees may be planted no closer than 30 feet.
(Ord. 1293, passed - -)

§ 13-509 DISTANCE FROM CURB AND SIDEWALK.

(a) Street trees may be planted in the tree laws where there is more than six feet between the edge of the sidewalk and the curb of the street. Street trees shall be planted no closer than three feet from a sidewalk or a street.

(b) No street tree shall be planted closer than 35 feet from any street corner, measured from the point of the nearest intersection of curbs or curb lines.

(c) No street tree shall be planted closer than ten feet from any fireplug.

(d) Special permission must be obtained from the City when planting street trees within ten feet of any point on a line on the ground immediately below any overhead utility wire, or within five lateral feet of any underground water line, sewer line, transmission line or other utility.
(Ord. 1293, passed - -)

§ 13-510 PUBLIC TREE CARE.

(a) The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

(b) The City may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of the trees is in accordance with §§ 13-507 and 13-511 of this article.
(Ord. 1293, passed - -)

§ 13-511 PERMITS REQUIRED.

No person shall plant a street tree or any other tree in the public right-of-way without first obtaining a permit from the City Clerk/Administrator. There will be no fee for such permit.
(Ord. 1293, passed - -)

§ 13-512 TREE TOPPING.

It shall be unlawful as a normal practice for any person to top any street tree, park tree or other tree on public property. **TOPPING** is defined as the sever 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, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this article at the determination of the City.

(Ord. 1293, passed - -)

§ 13-513 PRUNING, CORNER CLEARANCE.

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 sidewalk. The owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

(Ord. 1293, passed - -)

§ 13-514 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 constitutes a potential threat to other trees within the city. The City will notify in writing the owners of such trees. Removal shall be done by the 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 owner's property tax notice.

(Ord. 1293, passed - -)

§ 13-515 REMOVAL OF STUMPS.

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

(Ord. 1293, passed - -)

§ 13-516 INTERFERENCE WITH CITY.

It shall be unlawful for any person to prevent, delay or interfere with the City, or any of its agents, 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. 1293, passed - -)

§ 13-517 ARBORISTS LICENSE AND BOND.

It shall be unlawful for any person 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 \$50 annually in advance; provided however, that no license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$50,000 for bodily injury 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. 1293, passed - -)

§ 13-518 REVIEW BY CITY COUNCIL.

Repealed

§ 13-502 CREATION AND ESTABLISHMENT OF A CITY TREE BOARD.

There is hereby created and established a City Tree Board for the city which shall consist of five members, citizens and residents of this city, who shall be appointed by the Mayor with the approval of the Council.

(Ord. 1293, passed - -)

§ 13-503 TERM OF OFFICE.

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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. 1293, passed - -)

§ 13-504 COMPENSATION.

Members of the Board shall serve without compensation.

(Ord. 1293, passed - -)

§ 13-505 DUTIES AND RESPONSIBILITIES.

It shall be the responsibility of the Board to study, investigate, council and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replant, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the City Council and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the city. The Board when requested by the City Council, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

(Ord. 1293, passed - -)

§ 13-506 OPERATION.

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. 1293, passed - -)