

**CHAPTER XIII
STREETS AND SIDEWALKS**

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**ARTICLE 1
SIDEWALKS**

13-101 PERMIT REQUIRED. It shall be unlawful to construct, reconstruct or repair any sidewalk within the city until the plans first have been approved by the governing body and a permit issued for such work by the city clerk. (Code 1999)

13-102 SIDEWALK GRADE. Hereafter all sidewalks constructed or reconstructed in the city shall be constructed on the established grade. When the governing body shall order a sidewalk constructed as hereafter provided, the city shall pay the cost of bringing the street to grade for the sidewalk. Where no grade has been established, the owner of abutting property may construct a sidewalk on the natural grade. If the grade has been established, the city 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; Code 1993, 20-207; Code 1999)

13-103 SAME; SPECIFICATIONS. Hereafter all sidewalks shall be of single- course construction and shall be constructed and laid in accordance with standard plans and specifications hereby adopted by reference and filed in the office of the city clerk as provided by K.S.A. 12-1802. It shall be unlawful for any person, firm or corporation to construct, reconstruct or repair any sidewalk except as provided by this article. (Code 1993, 20-201,203; Code 1999)

13-104 SAME; PETITION. When a petition signed by no fewer than 10 citizens owning real estate in the city requesting construction of a sidewalk is filed with the city clerk, the governing body may in its discretion, by a resolution, order such sidewalk constructed as herein provided. (K.S.A. 12-1803; Code 1993, 20-202; Code 1999)

13-105 SAME; CONDEMNATION, RECONSTRUCTION. When any sidewalk, in the opinion of the governing body, become 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 1993, 20-204; Code 1999)

13-106 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 1993,

20- 05; Code 1999)

13-107 RIGHT OF ABUTTING OWNER. Nothing in this article shall be construed to prohibit the owner of property abutting on a street, who desires to construct or reconstruct a sidewalk at his or her own expense and in accordance with official plans and specifications for the purpose and which meet such other requirements as would have to be met if the sidewalk were constructed or reconstructed by the city, to construct or reconstruct a sidewalk without any petition or a condemning resolution by the governing body. If such property owner desires the sidewalk to be constructed and reconstructed by the city and an assessment levied as provided by law in other cases, he or she shall file a request with the governing body. The governing body, in its discretion, may provide for the construction or reconstruction of the sidewalk requested in the same manner as in other cases where citizens or taxpayers petition the governing body. (K.S.A. 12-1806; Code 1993, 20-206; Code 1999)

13-108 REPAIRS BY OWNER OR CITY. It shall be the duty of the owner of the abutting property to keep the sidewalk in repair, but the city may, after giving five days' notice to the owner or his or her agent, if known, of the necessity for making repairs or without notice if the lot or piece of land is unoccupied, make all necessary repairs at any time. The same shall be done and the cost thereof assessed against the lot or piece of land abutting on the sidewalk so repaired as may be provided by law. (K.S.A. 12-1808; Code 1993, 20-208; Code 1999)

13-109 SAME; OLD SIDEWALK MATERIALS. The cost of all sidewalks shall be assessed against the property abutting on the sidewalk; provided, that where a sidewalk is condemned and a new sidewalk constructed, the materials of the old sidewalk shall be the property of the city, except in those cases where the property owner builds the new sidewalk and pays for the same without any assessment having to be made, and in such cases he or she shall remove the old material from the street. (Code 1993, 20-209)

13-110 LEVY BY ORDINANCE; FULL PAYMENT BY OWNERS. When a sidewalk or sidewalks has or have been constructed or reconstructed and where such assessments must be levied for the expense thereof, the governing body shall, as soon as the cost is ascertained, levy an assessment against the lot or piece of land chargeable therefor, by ordinance, and the property owner shall have 30 days after the publication of the ordinance within which to make full payment of the assessment. The city clerk shall mail a notice not less than 15 days prior to the end of the 30 days to the owner of the property as shown on the records of the office of the register of deeds, but failure of the owner to receive the notice shall not affect the validity of the assessment. Any suit challenging the validity of the proceedings or the amount of the assessment must be filed within 30 days after the publication of the assessment ordinance. (Code 1993, 20-10)

13-111 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 \$1,000.00 entered into by the city for any such purpose a statutory lien bond required by K.S.A. 60-1111 shall be furnished. (Code

1999)

- 112 **OBSTRUCTIONS AND DEBRIS ON STREETS OR SIDEWALKS.** It shall be unlawful for any person to obstruct any street, lane, alley, crosswalk, sidewalk or public grounds in this city with any kind of vehicle, boxes, barrels, lumber, wood, merchandise or other things, or for any person to deposit any filth, rubbish, or debris on or in any sidewalk, street, alley, avenue or gutter; or for any person to suspend any obstruction over or across any sidewalk or thoroughfare, so as to in any manner interfere with the free passage over the same; provided, that when any person is engaged in erecting any building, he or she may occupy a portion of the street not exceeding 1/3 of the width thereof next to each building for the deposit of the material for a reasonable time; provided further, that merchants and tradesmen may occupy with their wares, benches or planters a portion of the sidewalk not exceeding three feet from the inside line of such sidewalk in front of their place of business, as long as the egress and ingress to the building is not disturbed. Any obstruction or blocking of any sidewalk or street other than that outlined above requires the prior approval of the city council. (Ord. 2048, Sec. 1)
- 113 **SAME PENALTY.** Any person, whether acting as principal, agent, as a workman, performing the labor or acting in any other capacity in and about cutting openings through such pavement or in any manner excavating or cutting the same, without first having obtained such permit and made such deposit of money with the city clerk as hereinbefore provided, or who shall not complete the work, the doing of which necessitated the opening of the pavement, as expeditiously as possible, or who shall leave any opening or openings in such pavement longer than necessary shall be deemed guilty of a code violation and shall upon conviction thereof be subject to confinement and/or the imposition of a fine as provided by section 1-116. (Code 1993, 20-304)
- 114 **SAME; EXCEPTION.** The governing body may authorize the granting of temporary permits in connection with a building or moving permit for limited times only to the owner of property abutting on any sidewalk to use or encumber such sidewalk or public way of the city during the construction of any building or improvement thereon. No permit shall be issued for such purpose until plans for warning and safeguarding the public during such use of sidewalks shall have been submitted by the owner or his or her contractor and approved by the governing body. (Code 2007)

ARTICLE 2 STREETS

- 3-201 **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. (Code 1993, 20-103; Code 1999)
- 3-202 **SAME; BOND.**
- (a) No permit authorized in this ordinance shall be issued until the applicant has given to the city a good and sufficient bond in the sum of \$5,000.00 conditioned that the applicant will faithfully comply with all the terms and conditions of this ordinance, 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 subsection (a).

(c) Each bond given under this ordinance shall be approved by the city attorney and filed with the city clerk.

3-203 SAME; FILED. If the application is approved by the city, the city clerk shall issue a permit upon payment of a fee of \$5.00. Each permit issued under the provisions of this ordinance shall cover only one specified excavation. (Code 2007)

3-204 SAME; BARRICADES. Any person to whom an excavation permit is issued 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 night. 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. (Code 1993, 20-104:105; Code 1999)

3-205 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. (Code 1999)

3-206 OPENINGS IN STREET; CELLAR DOORS; GRATINGS. It shall be unlawful for any person to leave open any cellar door or grating, on any street, thoroughfare or sidewalk in this city, or suffer any such door to be in any insecure condition, whereby persons may be in danger of falling into such cellar or other place. (Code 1993, 20-106)

3-207 CUTTING CURBS; PAVEMENT.

(a) 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 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. (Code 1993, 20-301; Code 1999)

3-208 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 1999)

3-209 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 1999)

3-210 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 subsection in connection with community promotions or community-wide celebrations when such waiver is considered to be in the best interest of the city. (Code 1999)

3-211 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 1999)

3-212 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 1999)

3-213 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 1999)

3-214 LAUNDRY WATER. It shall be unlawful for any person running or operating any laundry in this city to empty into or upon any street, land, avenue, or alley, any suds, rinse or waste water from such laundry or in or upon any lot or parcel of ground where such waste will find its way into or upon any street, avenue, land or alley of this city, and any person, owning or operating any laundry, or any servant, manager or agent of any such person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor. (Code 1993, 20-112)

3-215 REPAIR; PAINT CAR IN STREET. No person shall repair, paint or cause to be repaired, painted any vehicle in or upon any public street or avenue within the city, except that temporary repairs may be made thereon in case of emergency. (Code 1993, 20-115; Code 1999)

3-216 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. (Code 1999)

3-217 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 1999)

3-218 VEHICLES WITH LUGS. It shall be unlawful for any person to drive, propel or in any manner move any tractor, truck or other vehicle of any kind upon any paved street, avenue or alley in this city, without first removing such metal lugs, planking the streets or using other means to fully protect such paving from injury by reason of such tractor, truck or other vehicle passing over the pavement on such street, avenue or alley. (Code 1993, 20-113)

3-219 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. (Code 1999)

ARTICLE 3 TREES AND SHRUBS

3-301 TREE BOARD; ESTABLISHED. There is created and established a City tree board for the City, which shall consist of 10 members, as designated in section 13-302 who are citizens and residents of the city, and who shall be appointed by the mayor with the approval of the governing body and the appointments shall be made consistent with the recommendations made by the chamber of commerce of the City. (Code 1993, 22-101)

3-302 SAME; TERM OF OFFICE. The term of the 10 persons to be appointed by the mayor shall be as follows: chamber of commerce, city beautification committee chairperson, one member of the city governing body, one member of the chamber of commerce board of directors. The appointment of these three above-named individuals shall be for a term of one year. Four citizens and residents of the city shall be appointed to the board for a two year term, with the exception that the term of two such at large members appointed to the first city tree board shall be for a term of one year. The three remaining positions on the city tree board shall be filled by the city park superintendent, utility park superintendent and the Clay County courthouse grounds keeper for un-expiring terms. In the event a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the same. (Code 1993, 13- 302; Code 1999)

3-303 SAME; COMPENSATION. Members of the board shall serve without compensation.
(Code 1993, 13-303)

3-304 DUTIES AND RESPONSIBILITIES. It shall be the responsibility of the board to study, investigate and develop and/or update annually a written plan for the care, preservation, trimming, planting, replanting, removal or disposition of trees and shrubs in public ways, streets, alleys, and parks and other publicly owned property. Such plan will be presented annually to the governing body and upon acceptance and approval by the governing body shall constitute the official comprehensive city tree plan for the city. The board, when requested by the governing body, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work. In addition to the preparation of the plan, the city tree board, or its agents, shall be responsible for the planting, pruning and removal of all trees located within the street rights-of-way, easements, alleys and parks of the city. The owner of

land abutting on any street may, when acting within the provisions of this section, prune, spray, plant or remove trees in that part of the street abutting his or her land and not used for public travel. A street tree permit shall be required only when the owner intends to deviate from the rules and regulations set forth in sections 13-308:316. (Code 1993, 22-104)

3-305 SAME; INTERFERENCE. It shall be unlawful for any person to prevent delay or interfere with the city or any of its agents or employees, including the city tree board, 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. 2027, Sec. 1)

3-306 SAME; 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 constitute a quorum for the transaction of business. (Code 1993, 22-106)

3-307 SAME; REVIEW BY GOVERNING BODY. The governing body of the city 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 upon proper notice to the city tree board and the governing body may hear the matter and any procedure which will insure due process to all parties involved and make the final decision. (Code 1993, 22-107)

3-308 DEFINITIONS.

(a) Street Trees - 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 - Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all area owned by the city, or to which the public has free access as a park. (Code 1993, 22-201)

3-309 STREET TREE SPECIES TO BE PLANTED. The following list constitutes the official street tree species for the city. This list adopts the preferred tree list of the Northeast Kansas Urban Forestry Council. No species other than those included in this list may be planted as street trees without written permission of the city tree board.

<u>Small Trees</u> (10' - 30')	<u>Medium Trees</u> (30'-70')	<u>Large</u>	
		<u>Deciduous Trees</u> (70'+)	<u>Evergreen Trees</u>
Crabapple, Flowering	Ash, White	Oak, Bur	Pine, Austrian
Hawthorn, Cockspur	Birch, River	Oak, Red	Pine, Scotch
Maple, Amur	Ginkgo	Planetree, London	Pine, White
Redbud	Goldenrain Tree		
	Hackberry		
	Linden, Littleleaf		
	Locust, Honey		
	Maple, Red		
	Maple, Sugar		
	Oak, English		
	Osage Orange, thornless		

(Ord. 2027, Sec. 2)

3-310 SPACING. The spacing of street trees will be in accordance with the three species size classes listed in section 13-309 and 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.
(Code 1993, 22-203)

3-311 DISTANCE FROM CURB AND SIDEWALK. The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in section 13-309, and 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. (Code 1993, 22-204)

3-312 DISTANCE FROM STREET CORNERS AND FIRE PLUGS. No street tree shall be planted closer than 20 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than 10 feet of any fireplug. (Code 1993, 22-205)

3-313 UTILITIES. No street trees other than those species listed as small trees in section 13-309 may be planted under or within 10 lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility.
(Code 1993, 22-206)

3-314 PUBLIC TREE CARE. The city shall have the right to plant, trim, spray, preserve 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. (Code 1993, 22-207)

3-315 TRIMMING; CORNER CLEARANCE. Every owner of any tree overhanging any street or right-of-way within the city shall trim 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 or clearance of 12 feet above the surface of a street or alley. Provided, however, that the clearance of 14 feet above the surface of the street or right-of-way is required for Sixth and Crawford Streets as they are State and U.S. Highways. The owner shall maintain a clearance of eight feet above the surface of any sidewalk. The owner 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 trim any tree or shrub on private property when it interferes with the proper spread of light along the street from the street light or interferes with visibility of any traffic control device or sign or interferes with city equipment in the performance of street cleaning or snow removal or other such functions. Any trimming by the city shall be performed under the supervision of city personnel trained in appropriate pruning procedures. (Ord. 2027, Sec. 3)

3-316 DEAD TREES OR SHRUBBERY; REMOVAL; NUISANCE; ABATEMENT. It shall be unlawful for any person owning or controlling any trees or shrubbery which have died and become dead wood, which border on any of the streets, avenues, sidewalks, alleys or public grounds in the city, to permit the dead trees or shrubbery to remain on the premises, and the property owners shall remove or cause to be removed from the premises the dead trees or shrubbery; such dead

trees or shrubbery shall be deemed a common nuisance and any person maintaining such nuisance who shall fail or refuse to abate the same upon notice to do so shall be deemed guilty of a code violation, and such nuisances shall be abated, notice given and costs assessed. (Code 1993, 22-209)

3-317 DISEASED TREES; CITY INSPECTION. The park superintendent and the tree board of the city shall inspect or cause to be inspected at least twice each year all trees or tree material within the city to determine whether such trees or tree material are dead, weakened or dying from any cause or are infected with, or harbor or are in a condition to be susceptible to any disease, including dutch elm disease or elm bark beetles or the larvae thereof, the uncontrolled presence of which may constitute a hazard to, or result in the damage or destruction of, other trees in such city; where it is deemed necessary to take specimens, the person inspecting such trees shall remove or cut specimens from the tree in such manner as to avoid permanent injury thereto and that such inspector is hereby authorized to enter upon private premises at reasonable times for the purpose of carrying out any of the provisions of this article. (Code 1993, 22-301)

3-318 EVIDENCE OF DISEASES; BEETLES OR LARVAE. The procedure to follow regarding diseased trees and shrubs shall be as outlined below:

(a) When ever the park superintendent and the tree board shall discover that trees or tree material on city owned property are dead, weakened or dying from any cause or are infected or infested with or harbor or are in a condition to be susceptible to disease, including dutch elm disease or elm bark beetles or the larvae thereof the park superintendent shall cause such trees to be removed and burned at the expense of the city at large.

(b) The owner of property abutting upon streets and avenues in the city shall be considered to be the owner of the trees in the parking situated in front of such real estate between the curblin and the property line, and such trees shall not be considered as being located upon city owned property, for the purposes of this article.

(c) Whenever the park superintendent and the tree board or competent state or federal authority, when requested by the governing body of the city, shall file with the governing body a statement in writing based upon a laboratory test, observation or other supporting evidence that trees or tree material located upon private property are dead, weakened or dying from any cause or are infected or infested with or harbor or are in a condition to be susceptible to disease, including dutch elm disease or elm bark beetles or the larvae thereof, describing the same and where located, the governing body shall direct the city clerk to forthwith issue a notice requiring the owner or agent of the owner of the premises to treat or remove and burn any such designated tree, or tree material, within 14 days after the service of such notice each such notice shall be served by the chief of police or other police officer by delivering a copy thereof to the owner or agent of the owner of such property, or if the same is unoccupied and the owner a nonresident, then the city clerk shall notify the owner by mailing a notice to his or her last known address; if the owner or agent shall fail to comply with the requirements of the notice within the time specified in the notice, then the street commissioner shall proceed to have the designated tree, or tree material, removed and burned as the case may be, and report cost thereof to the city clerk and the cost of such removal shall be paid by the owner of the property, or shall be assessed and charged against the lot or parcel of ground on which the tree, or tree material, was located; the city clerk shall at the time of certifying other city taxes to the county clerk, certify the unpaid costs, and the county clerk shall extend the same on the tax roll of 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. As soon as the cost of such tree removal by the city is reported to the city clerk, he or she shall send a notice of the amount thereof to the owner of the property on which such tree was removed, which notice shall state that unless such

amount is paid-within 30 days of the date of such notice, the same shall be assessed and charged against the lot or parcel of ground on which such trees was located. (Code 1993, 22-302)

3-319 **NON-LIABILITY.** In carrying out the provisions of this article such city shall be acting under its governmental capacity and that no damages shall be awarded to any owner for the destruction or removal of any such tree or tree material as provided herein. (Code 1993, 22-303)

3-320 **PROHIBITED ACTS AND PENALTIES.** Any person who interferes with or prevents any lawful acts of the park superintendent, his or her agents or employees, while they are engaged in the performance of their duties imposed by this article, or refuses to permit the park superintendent or his or her duly authorized representative to enter upon the premises of the owner at reasonable times to exercise the duties imposed by this article, or who permits any elm tree or elm tree material or tree of any kind that is already dead, weakened or dying from any cause, or which is infected or infested with or harbors or is in a condition to be susceptible to dutch elm disease or elm bark beetles or the larvae thereof, to remain on any premises owned or controlled by him or her when ordered by the city clerk to cause the same to be removed, shall upon conviction thereof shall be subject to confinement and/or the imposition of a fine as provided by Article 12, Uniform Public Offense Ordinance, incorporated by section 11-101. (Code 1993, 22-304)

ARTICLE 4 SNOW AND ICE

3-401 **SNOW AND ICE TO BE REMOVED.**

(a) It shall be unlawful for the owner and/or the occupant of any lots abutting upon any sidewalks to fail to cause to be removed from such sidewalks all snow and ice within 24 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 24 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. (Code 1993, 20-401; Code 1999)

3-402 **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 non-corrosive 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. (Code 1999)

3-403 **SAME; PENALTY.** That any person violating the provisions of section 13-401 shall, upon conviction, be fined \$25.00. (Code 1999)

3-404 **REMOVAL MAY BE MADE BY CITY.** If any owner or occupant of any lot or lots shall refuse or neglect to clean or remove from the sidewalk abutting the lot or lots all snow and ice within the time specified, the city may cause such snow and ice to be removed from sidewalks and the cost thereof shall be assessed against such abutting lot or lots, and the city clerk shall certify the same to the county clerk for collection as provided by law. (Code 1993, 20- 01; Code 1999)

3-405 **COSTS ON TAX ROLLS.** The city clerk shall, at the time of certifying other city taxes to the county

clerk, certify the unpaid costs for removal of snow or ice performed under the authority of section 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. (Code 1993, 20-402; Code 1999)

ARTICLE 5 ENCROACHMENTS

3-501 **ENCROACHMENTS UNLAWFUL.** It shall be unlawful for any person to erect, set up, install or maintain any encroachment on or above the right-of-way of any city connecting link on the state highway system in any outlying commercial area or in any residential area in the city.
Code 1993, 20-501)

3-502 **ENCROACHMENTS ON RIGHT-OF-WAY UNLAWFUL.** It shall be unlawful for the owner or lessee of any property abutting upon the right-of-way of any city connecting link on the state highway system in the city to use the right-of-way for the storage of vehicles, placement of portable signs or other private use thereof whatsoever, (Code 1993, 20-502)

3-503 **PERMITTED USES.** Where the route of the city connecting link on the state highway system passes through established business districts and the buildings are at the property line and the buildings are at the property line and are continuous or very closely spaced, overhang encroachments will be permitted under the following conditions:

- (a) Awnings, canopies, marquees and similar installations supported wholly from the face of the building shall be permitted; provided, that the edge of such encroachment be not less than three feet back of the face of the curb.
- (b) Advertising or other similar signs supported wholly from the front of buildings shall be permitted to remain in place from and after the passage of this article until such time that they become functionally or structurally obsolete at which time such signs shall then be removed by the owner or lessee thereof.
- (c) The replacement of obsolete or installation of new advertising or other similar signs attached to the building will be permitted; provided, that such signs are parallel to the building and the overhang does not exceed one foot.
- (d) In the event the encroachments referred to in subparagraphs (a),(b)and (c) in this section, by reason of color or placement, obscure or in any way detract from the effectiveness of highway signs or traffic signals, the owner or lessee thereof shall remove such encroachment immediately. (Code 1993, 20-503)

3-504 **GROUND SUPPORTED ENCROACHMENTS; UNLAWFUL.** It shall be unlawful for any person to erect, set up, install or maintain any signs, canopies, or other encroachments supported from the ground on the right-of-way of city connecting links on the state highway system within the business district of the city, and any such existing signs, canopies or other encroachments shall be removed immediately. (Code 1993, 2-504)

3-505 **GAS OR FUEL DISPENSING PUMPS; REQUIREMENTS.** Any person owning or leasing gas or fuel dispensing pumps between the right-of-way lines of the city connecting links of the state highway system in the city shall cause the same to be removed immediately, and that hereafter it shall be unlawful for any person to erect, install, set up or maintain any gas or fuel dispensing

pump within 12 feet back of such right-of-way line of the connecting links. (Code 1993, 20-506)

3-506 **MAXIMUM WIDTH OF CURB OPENINGS.** The maximum width of curb openings on city connecting links on the state highway system in the city be, and it is, hereby established at 40 feet; it shall be unlawful to construct entrances through the curved portion of the curb at intersecting streets on the connecting links, and it shall be unlawful to construct or use any entrances along Sixth Street in the city between the south city limits and Blunt Street, or along Crawford Street in the city between Fifth and Seventh Streets other than those entrances shown on the state highway commission plans for the improvement of the portions of the city connecting links, without prior approval by the governing body of the city and by the state department of transportation. (Code 1993, 20-507)