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 2007)

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 2007)

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 2007)

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 2007)

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 2007)

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 2007)

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 2007)

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 2007)

13-109. 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. 60-1111 shall be furnished. (Code 2007)

13-110. OBSTRUCTING SIDEWALKS. It shall be unlawful for any person to build or construct any step or other obstruction, whether temporary or permanent, or to store, leave or allow to be left any implements, tools, merchandise, goods, containers, benches, display or show cases, on any sidewalks or other public ways in the city or to obstruct the same longer than is necessary for loading or unloading any such article or object. (Code 2007)

13-111. 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

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. (Ord. 489, Sec. 1; Code 2007)

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.

(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 section shall be approved by the city attorney and filed with the city clerk.
(Ord. 489, Sec. 2; Code 2007)

13-203. 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 section shall cover only one specified excavation. (Code 2007)

13-204. 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 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. (Ord. 489, Sec. 3; Code 2007)

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.
(Ord. 489, Sec. 4; Code 2007)

13-206. 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.
(Ord. 489, Sec. 5; Code 2007)

13-207. 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 2007)

13-208. 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 2007)

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 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 2007)

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. (Code 2007)

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.
(Code 2007)

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. (Code 2007)

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. (Code 2007)

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. (Code 2007)

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. (Code 2007)

13-216. PENALTY. Any person found to be in violation of any of the provisions of this article shall be punished by a fine not to exceed $500.00.
(Ord. 489, Sec. 6; Code 2007)

ARTICLE 3. CULVERTS

13-301. CULVERTS; PURPOSE. The governing body has found that there exists within the corporate limits of the city, certain culverts which are impeding the flow of water and resulting in inconvenience and/or damage to adjoining land owners. It is hereby deemed necessary by the governing body to require or cause the repair, replacement or removal of certain culverts as provided in this ordinance. (Ord. 520, Sec. 1; Code 2007)

13-302. SAME; DEFINITIONS. For the purpose of this ordinance, the word;

(a) Culvert - shall include any pipe or other means of transferring water underneath a roadway or driveway.

(b) Public officer - shall mean supervisor of the water department. (Ord. 520, Sec. 2; Code 2007)

13-303. SAME; PUBLIC OFFICER'S DUTIES. The public officer is hereby authorized to exercise such power as may be necessary to carry out the purpose of this ordinance, including the following:

(a) Inspect any culvert which appears to be unsafe, dangerous, impeding the flow, collapsed or otherwise unfit for the intended purpose of said culvert;

(b) To have authority to enter upon such property at reasonable hours for the purpose of making such inspection. Entry shall be made so as to cause the least possible inconvenience to any person in possession of the property. If entry is denied, the public officer may seek an order for the purpose from a court of competent jurisdiction;

(c) Report all culverts which they deem to be unsafe, unfit, collapsed, or otherwise dangerous for the purpose designed to governing body. (Ord. 520, Sec. 3; Code 2007)

13-304. SAME; PROCEDURE. Whenever the public officer reports to the governing body that a culvert is collapsed, unfit, unsafe or dangerous, the governing body by resolution shall fix a time and place at which the owner, the owner's agent, any lien holder of record and any occupant of the premises may appear and show cause why the culvert should not be repaired, replaced or removed. (Ord. 520, Sec. 4; Code 2007)

13-305. SAME; HEARING ORDER. If after notice and hearing, the governing body determines the culvert is dangerous, collapsed, unsafe or unfit for the intended purpose, it shall state in the minutes its findings of fact in support of such determination and shall cause of resolution to be published in the city newspaper and a copy mailed to the owners, agents, lien holders of record and occupants by U.S. Mail. The resolution shall fix a reasonable time within which the repair or removal of such culvert shall be commenced and a statement that if the owner or occupant of such structure fails to commence the repair or removal of the culvert within the time stated, or fails to diligently proceed with the repair or removal until the work is completed, the governing body shall cause the culvert to be removed and replaced. (Ord. 520, Sec. 5; Code 2007)

13-306. SAME; DUTY OF OWNER. Whenever any culvert within the city shall be found to be dangerous, collapsed, unsafe, or unfit for the intended purpose, it shall be the duty and obligation of the owner of the property to remove or replace said culvert. (Ord. 520, Sec. 6; Code 2007)

13-307. SAME; FAILURE TO COMPLY. (a) If within the time specified in the resolution, the owner fails to comply with the order to repair, remove, or replace the culvert, the public officer may cause the culvert to be repaired or replaced.

(b) If within the time specified in the resolution, the owner fails to comply with the order to repair, remove or replace the culvert, the public officer may cause the culvert to be removed and replaced.
(Ord. 520, Sec. 7; Code 2007)

13-308. SAME; ASSESSMENT OF COSTS. (a) The costs to the city of any repair, removal or replacement of the culvert, including the cite preparation, shall be reported to the city clerk.

(b) The city shall give notice to the owner of the structure by restricted mail of the costs of repair and replacement of the culvert in making the cite safe and secure. The notice shall also state that payment of the cost is due and payable within thirty (30) days following receipt of the notice.

(c) If the costs remain unpaid after thirty (30) days following receipt of the notice, the city clerk may:

(1) If the owner is also the occupant of the premises and has an open account for electricity, water or sewer with the city, the city clerk may apportion the costs over the next four (4) consecutive months and collect one-fourth (1/4) of the costs in each month. Failure to pay a said bill may result in termination of services for water, electric or sewer.

(2) If the bill for the cost is uncollectible by means of subparagraph 1, the city clerk shall, at the time of certifying other city taxes, certify the unpaid portion of the costs to the county clerk, who shall extend the same on the tax roll of the county. (Ord. 520, Sec. 8; Code 2007)

13-309. SAME; SECTIONS. Whenever a culvert is replaced, the replacement shall be done in five (5) foot increments and the costs assessed shall be based upon the nearest five (5) foot necessary to complete the project in the opinion of the public officer. (Ord. 520, Sec. 9; Code 2007)

13-310. SAME; VOLUNTARY REPLACEMENT. Whenever any city resident desires that a culvert be replaced, the city shall provide the cost of replacement in five (5) foot increments to the landowner. The cost of the repair or replacement of said culvert may be paid by the landowner by an assessment of one-fourth (1/4) of the costs of repair and replacement assessed in four (4) consecutive months with the water and sewer bills. (Ord. 520, Sec. 10; Code 2007)

13-311. SAME; IMMEDIATE HAZARD. When in the opinion of the governing body, any culvert is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, the governing body may direct the public officer to cause the culvert to be repaired, replaced or otherwise made safe without

delay. Such action may be taken without prior notice to or hearing of the owners, agents, lien holders, and/or occupants. The cost of any action under this section shall be assessed against the property as provided herein.
(Ord. 520, Sec. 11; Code 2007)

13-312. SAME; APPEALS FROM ORDER. Any person affected by an order issued by the governing body under this ordinance may, within thirty (30) days following service of the order, petition the District Court of the county in which the structure is located for an injunction restraining the public officer from carrying out the provisions of the order pending final disposition of the case or may seek any other remedies as allowed under law. (Ord. 520, Sec. 12; Code 2007)

13-313. SAME; SCOPE. Nothing in this article shall be construed to abrogate or impair the powers of the court or of any department of the city to enforce any provisions of its charter, or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this ordinance shall be in addition to and supplemental to the powers conferred by the constitution, any other law or ordinance. (Ord. 520, Sec. 13; Code 2007)

ARTICLE 4. TREES AND SHRUBS

13-401. 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 public grounds. 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 with any injurious fungus, insect or other pest. (Code 2007)

13-402. 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 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. (Code 2007)

13-403. 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 shall notify the owner by mailing a notice by certified mail to his last known address. (Code 2007)

13-404. 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. 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. (Code 2007)

13-405. SAME; PREVENT SPREAD OF DISEASE. No tree, tree materials or shrubs as mentioned herein which 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. (Code 2007)

13-406. 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 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.

(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.
(Code 2007)

13-407. TREES ON PUBLIC PROPERTY; COST BORNE BY CITY. The city shall have the authority to treat or to remove any tree as defined in section 13-301 of this article, 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.
(Code 2007)

13-408. 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 the authority of sections 13-304:306 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. (Code 2007)

13-409. 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. (Code 2007)

13-410. 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 10 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. (Code 2007)

ARTICLE 5. SNOW AND ICE

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.
(Code 2007)

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. (Code 2007)

13-503. SAME; PENALTY. That any person violating the provisions of section 13-401 shall, upon conviction, be fined $25.00. (Code 2007)

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. (Code 2007)

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 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 2007)

ARTICLE 6. HOUSE NUMBERS / MAILBOXES

13-601. POSTING OF PHYSICAL ADDRESS NUMBERS. Any owner, agent, leasee, tenant, or other person occupying residential or commercial property within the City of Arma shall post the respective physical address number designated for that particular property in such a place and in such a manner whereby visibility of said number shall be clear from the street on which the property is located. (Ord. 496, Sec. 1; Code 2007)

13-602. MAINTENANCE OF PHYSICAL ADDRESS NUMBERS. Physical address numbers posted pursuant to this article shall be maintained by the owner, agent, leasee, tenant or other person occupying the property in such a manner so that clear visibility of said number shall remain continuous and unobstructed. (Ord. 496, Sec. 2; Code 2007)

13-603. PROHIBITION OF MAIL BOXES. The installation of mail boxes along the roadway in the blocks of Washington and Main, between the streets of 6th and Hoisington is hereby prohibited. (Ord. 514, Sec. 1; Code 2007)

13-604. PENALTY. Citation and conviction in the municipal court of Arma for failure to comply with the provisions of this section shall result in a fine not to exceed $100.00. (Ord. 496, Sec. 3; Code 2007)

13-605. RE-OFFENSE. Prior convictions for violation of this article shall not preclude subsequent violations. (Ord. 496, Sec. 4; Code 2007)