

ORDINANCE NO. 718

AN ORDINANCE PROHIBITING OBSTRUCTING STREETS OR SIDEWALKS, DISTURBING BARRICADES AND LIGHTS, INJURING NEW PAVEMENT, EXCEPTIONS, PROVIDING FOR REMOVAL OF CERTAIN TREES AND SHRUBS; PENALTIES.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LYNDON, KANSAS:

SECTION 1. Obstructing street or sidewalk.

(a) It shall be unlawful for any person to cause, create or maintain any obstruction on any street, alley, sidewalk or other public way, except as may be specified by ordinance or be necessitated by public improvements. It shall be unlawful to erect, maintain, or operate any booth, portable/temporary business vehicle or stand, gasoline pump, air station or other similar structure or device upon any street, alley or sidewalk in the city, except as may be specified by ordinance.

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

SECTION 2. Encroachments

It shall be unlawful to erect or maintain any building or structure which encroaches upon any public street or alley.

SECTION 3. Disturbing barricades and lights

It shall be unlawful to disturb or interfere with any barricade, light or other warning sign placed to protect or mark any new pavement or excavation or opening in any public street, alley or sidewalk or to safeguard the traveling public.

SECTION 4. Injuring new pavement

It shall be unlawful to walk upon or drive any vehicle or animal upon or injure in any manner any newly laid street or sidewalk pavement while the same is guarded by a warning sign, light or barricade.

SECTION 5. Steps extending into the street

It shall be unlawful to erect or maintain any portico, platform or doorstep extending into any street, alley or sidewalk.

SECTION 6. Display of goods

It shall be unlawful to use any street, sidewalk or other public place as space for the display of goods or merchandise for sale or to write or make any sign for advertisement upon any such street, sidewalk or other public place, except as may be specified by ordinance.

SECTION 7. Exception for Certain Street or Sidewalk Sales:

The following events and occurrences otherwise restricted by the provisions of sections of this ordinance shall be excepted therefrom by action of the Governing Body at any regular or specially called public meeting thereof, where such event or occurrence shall qualify as one of the following:

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

(2) A public sale of merchandise conducted by merchants owning and occupying ongoing business establishments in any commercial area or zone. The sidewalks only may be used during such sale by said merchants with ongoing business establishments. Approval by the Governing Body shall be conditioned upon provisions being made for adequate passage for pedestrians upon said sidewalk, and no part of the street shall be used for such passage. The Governing Body shall exercise discretion regarding the number of times per calendar year they authorize this exception.

SECTION 8. **Trees and Shrubs**

(a) *Removal of Obstructions:*

(1) It shall be the duty of the owner of real property to remove from such property or from the public right of way adjacent to such property, including, without limitation, the streets, alleys, avenues, boulevards, public parking portions thereof, and other public rights of way within such city, any tree, plant, shrub or other obstruction, or part thereof, which: a) obstructs the view of any driver, constituting a traffic hazard; or b) overhangs or grows over or on any sidewalk, street, or other public way in such a way as to impede, obstruct or interfere with traffic or travel on such public way.

(2) When the designated city engineer, or other local authority or representative approved by the Governing Body, determines upon the basis of an engineering or traffic investigation that such an obstruction exists, the designated city engineer, or such other local authority, shall notify the owner and order that the hazard be removed within ten (10) days.

(3) The failure of the owner to remove such obstruction within ten (10) days shall constitute an event punishable by a penalty of twenty dollars (\$20.00) and every day said owner shall fail to remove it shall be a separate and distinct offense.

(b) *Immediate Danger:* If the designated city engineer, or other local authority or representative approved by the Governing Body, in consultation with the chief of police, determines that an obstruction identified in subsection (a) of this section constitutes an immediate hazard to the public health and safety whereby the physical safety of the users of the public way would be placed in immediate jeopardy then the designated city engineer or other city representative shall have the authority to cause the removal of the obstruction causing said immediate hazard to the extent necessary to remove such imminent danger. The designated city engineer or other city representative shall attempt to cause the property owner to be notified in person prior to causing said removal, but if unable to provide such notice, shall as soon as possible cause notice of such action to be given to the property owner. The property owner shall have the right to a hearing before the Governing Body as to whether said removal was justified.

(c) *Notice:* Notice as provided herein shall be given to the property owner in writing at said property owner's last known address.

(d) *Failure to Remove Obstruction:* If the property owner to whom the notice required by subsection (a) of this section has been given, neglects to cause the removal of the tree, plant, shrub or other obstruction, or part thereof, as required by such notice, the city may:

(1) Cause such tree, plant, shrub or other obstruction to be removed according to the notice; and/or

(2) File a complaint against such owner in the Municipal Court of the city.

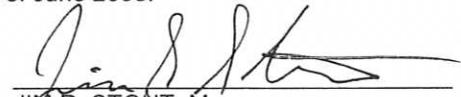
(e) *Assessment and Collection of Costs when Removal is Conducted by City:* If the city shall cause such trees, plants, shrubs or other obstructions to be removed, the cost of said removal, including all administrative costs, shall be assessed to the property owner whose duty it was to perform the removal, and shall collect said costs in accordance with the procedures established by state statute, as amended, to the extent such procedure is consistent with the provisions of this section.

SECTION 9. Except as otherwise indicated, violation of this ordinance shall be punishable by a fine of not less than \$20.00 nor more than \$500.00.

SECTION 10. All previous ordinances in direct conflict with the provisions of this ordinance are hereby repealed.

SECTION 11. This Ordinance shall take effect and be in force from and after its passage, approval, and publication in the official newspaper of the City, as provided by law.

PASSED AND APPROVED this 6th day of June 2005.



JIM R. STOUT, Mayor

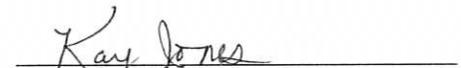
Attest:



Kay Jones
City Clerk

STATE OF KANSAS, COUNTY OF OSAGE, SS:

I, the undersigned, hereby certify that I am the duly appointed and acting City Clerk of the City of Lyndon, Kansas; that the above Ordinance was passed by the council and approved by the Mayor on the 6th day of June 2005, and it was published on the 16th day of June 2005, and that the record of the final vote of passage is shown in the minutes of the proceedings of the Governing Body.



Kay Jones, City Clerk

(SEAL)

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