

## **TITLE 12**

### **PUBLIC PROPERTY**

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- 12.06 Curb, Gutter and Driveway Construction
- 12.08 Street Regulations
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## CHAPTER 12.04

### STREET CONSTRUCTION STANDARDS

#### Sections:

12.04.010 Standards on File--Street Width.

**12.04.010 Standards on File--Street Width.** Minimum standards and specifications for all streets and alleys in the city are to be kept on file in the office of the city engineer and may be changed from time to time in the interest of safety and construction. The width for all streets shall be determined by the Governing Body, which may consider recommendations of the planning commission, except that all streets shall have a minimum width of twenty-eight feet; provided, however, that whenever the Governing Body finds that the strict application of this section will constitute unnecessary hardships upon the abutting property owners, or that the terrain or physical features of the property affected necessitate a narrower width, the Governing Body may authorize a street of less than twenty-eight feet. (Ord. 601 § 1, 1977; prior code § 9-301.)

## CHAPTER 12.06

### CURB, GUTTER AND DRIVEWAY CONSTRUCTION

#### Sections:

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**12.06.010 Definitions.** For the purpose of this chapter, the following items have the meanings ascribed to them as hereinafter defined, unless otherwise expressly stated or the context clearly defines a different meaning:

(1) "Commercial driveway approach" means a driveway approach serving all residential development other than single-family or two-family dwellings, or any commercial establishment;

(2) "Corner" means the point of intersection of the outside lines of the roadway extended into the intersection of roadways;

(3) "Curb opening" means a space provided in a nonmountable curb to permit the entry or departure of a vehicle from the roadway to the driveway approach;

(4) "Curb return" means that portion of the curbing along the edge of any driveway approach which includes the radius of curvature or ramp type lug and which connects the driveway approach to the edge of the roadway;

(5) "Driveway" means a place on private property for the operation of automobiles and other vehicles;

(6) "Driveway approach" means an area between the roadway of the public street and private property intended to provide access for vehicles from the public street to private property;

(7) "Industrial driveway approach" means a driveway approach serving an industrial establishment;

(8) "Parking" means that portion of any public right-of-way between the curb or lateral lines of a roadway and the adjacent property lines not occupied by a sidewalk;

(9) "Property line" means a line dividing two adjacent properties, either both private properties or one private and the other public, or both public properties;

(10) "Residential driveway approach" means a driveway approach serving a single or two-family dwelling;

(11) "Roadway" means that portion of any public right-of-way improved, designed or ordinarily used for vehicular travel;

(12) "Safety island" means that area along the curblines that is between two commercial driveway approaches. (Ord. 759 § 1, 1978.)

**12.06.020 Crossing, Cutting or Breaking Curbs--Unlawful Acts.** It is unlawful for any person, firm or corporation willfully to drive or cause or permit to be driven, any vehicle or machinery over or across any curb or sidewalk in any street or avenue of the city, or to damage, break or cut any curb, gutter or sidewalk, except as may be authorized under a permit from the city engineer issued in accordance with ordinances of the city relating to street parkings, curbs and gutters, and as hereinafter provided for the construction of driveway entrances. (Ord. 137 § 2, 1973.)

**12.06.030 Bridging Curbs--Interference with Gutters--Exceptions.** It is unlawful for any person, firm or corporation to bridge across any curb or gutter or fill any gutter with concrete, asphalt or other material for purpose of gaining access to or egress from any driveway or private property, or to obstruct or interfere with the drainage of any gutter or drain at the edge of a roadway by placing therein any concrete, asphalt, planks, stones, earth or other material or substance for such purpose except by written permit of the city engineer; provided, that building materials may be stored in or alongside of any curb and gutter or any street parking in accordance with a permit issued as provided by ordinance relating to the encumbering of streets for certain purposes; provided further, that the city may remove any existing material or any material hereafter placed across any curb or in any gutter or drain in violation of this section. (Ord. 143 § 1, 1973; Ord. 137 § 3, 1973.)

**12.06.040 Driveway Approaches--Unlawful to Extend.** It is unlawful for any person, firm or corporation to construct, alter or extend, or permit or cause to be constructed, altered or extended any driveway approach which can be used only as a parking space or area between the curb and adjacent property line. (Ord. 137 § 4, 1973.)

**12.06.050 Construction of Driveway Approaches--Permit Required.** It shall be unlawful for any person, firm or corporation to construct or reconstruct, or cause to be constructed or reconstructed, any driveway approach within the city, without first obtaining a permit therefor from the city engineer; provided, however, no permit will be required under this chapter, when the driveway approach is to be constructed in connection with and simultaneously with the construction of improvements on private property for which a building permit has been issued. (Ord. 137 § 5, 1973.)

**12.06.060 Permit Fee.** No fee will be required for any permit issued under this chapter. (Ord. 137 § 6, 1973.)

**12.06.070 Conditions of Permits--Rules of Construction.** All permits granted for the use of public property under the provisions of this chapter shall be granted on condition that the same may be revoked, in the event of violation of any construction regulations enumerated hereafter and no such permit shall be deemed to permit or authorize any violation of other provisions of this code or other ordinances of the city. Any permit issued under this chapter shall be granted on the further condition that the permittee or his successors in title will, upon the abandonment of any driveway approach, restore and reconstruct the curb and gutter to its original condition upon notice from the city engineer, and the city reserves the right to close and charge the cost thereof against the owner; provided, that this chapter shall not be construed to deny or abridge the right of egress and ingress of property owners. (Ord. 137 § 7, 1973.)

**12.06.080 Disqualification for Permits.** Any person, firm, association or corporation who has previously violated any provision of this chapter shall not be granted any permit under this chapter unless and until the conditions causing the prior violations have been corrected. (Ord. 137 § 8, 1973.)

**12.06.090 Construction of Driveway Approaches--Regulations.** The following regulations shall apply to any driveway approach hereafter constructed or reconstructed:

(1) Any driveway or approach to be constructed must provide access to private property adjacent to the city street for some definite purpose such as a driveway, a parking area, or a door at least seven feet wide intended and used for the entrance of vehicles, and shall not be used for the parking or servicing of vehicles on street right-of-way;

(2) No driveway approach shall be constructed which will interfere with public facilities including street light poles, traffic signal standards, signs, catchbasins, hydrants, crosswalks, loading zones, utility poles, fire alarm supports, underground pipes or ducts or other necessary street structures without the concurrence in writing of the agency responsible for the affected facility;

(3) Not more than one driveway approach shall be constructed for access to one parcel of residential land less than eighty feet in width, except that driveway approaches may be permitted from each roadway adjacent to a corner lot. Each commercial or industrial property shall be allowed at least one driveway approach, but may have more so long as the total maximum summation of the widths of all driveway approaches upon the property does not exceed twenty percent of the length of the real property that fronts the abutting city street. Should more than one driveway approach be constructed, there shall be not less than ninety feet between the centerlines of each driveway approach;

(4) To prevent encroachment on adjacent property, the entire driveway approach, including the flared portions for turning purposes, must be constructed on the petitioner's property frontage extended; exception may be allowed by written consent of the adjacent affected property owners. Extension of property frontage is to be determined by projecting lines at right angles from the street centerline to the intersection of the abutting property lines with the street right-of-way;

(5) Adequate drainage structures, as approved by the city engineer, shall be provided at entrances by the petitioner;

(6) Safety. Every effort shall be made to select driveway approach locations so that maximum sight distance is possible. Existing medians will not be opened to accommodate abutting property other than crossovers placed by the city as a part of the design plans. No vehicle parking areas will be permitted on the right-of-way, and only those signs approved by the city shall be erected on the right-of-way;

(7) Where a driveway approach is serving more than a driveway or door on the private property, a nonmountable barrier curb shall be constructed and maintained on private property to prevent encroachment of vehicles or equipment upon public property except at the driveway approach;

(8) No driveway approach shall be constructed across any sidewalk unless such sidewalk be constructed or reconstructed in accordance with specifications pertaining to the construction of sidewalks to be used as driveway approaches;

(9) Where no sidewalk exists, that portion of the driveway approach adjacent to the property line shall be constructed as though a sidewalk did exist;

(10) No driveway approach shall be constructed in a manner to change or interfere with the gutter flow line or sidewalk grade where such driveway approach crosses any such gutter or sidewalk;

(11) The sidewalk and curb shall, insofar as possible, be cut and removed at the nearest joint. Upon replacement and reconstruction of a sidewalk as a driveway approach, the construction of the curb return and any pavement in connection with a driveway approach, suitable joints shall be provided and all such spaces shall be filled with a bituminous fibrous compound in accordance with the specifications of the city. When it is not possible to cut and remove at an existing joint, such cutting shall be performed by using a concrete saw;

(12) The cost of construction of all driveway approaches and necessary appurtenances thereto shall be borne by the permittee. (Ord. 759 § 2, 1978.)

**12.06.100 Design Standards.** The following standards shall be used in designing driveway approaches to be constructed in the city:

(1) Width of Driveway Approach.

(A) Residential driveway approaches: The width of residential driveway approaches shall conform to the widths as indicated in the following table:

Single Family (One-Car Garage)----	10 Feet
Single Family (Two-Car Garage)----	22 Feet
Single Family (Three-Car Garage)--	32 Feet
Duplex (Two, One-Car Garage)-----	24 Feet
Duplex (Two, Two-Car Garage)-----	44 Feet

Such widths shall be measured parallel to the centerline of the street at the property line.

(B) Commercial driveway approach: The width of commercial driveway approaches shall not exceed thirty-five feet or be less than twenty-five feet measured parallel to the centerline of the street at the property lines for two-way driveway approaches; provided, however, that commercial property may be allowed to have a driveway approach not exceeding fifty-two feet, if said driveway approach does not exceed twenty percent of the length of the real property abutting the adjacent city street and a four-foot raised median is placed within such driveway approach to divide the entrance and exit lane(s). The minimum width of a one-way driveway shall be sixteen feet.

(C) Industrial driveway approach: The width of industrial driveway approaches shall not exceed sixty-five feet or be less than twenty-five feet measured parallel to the centerline of the street at the property lines for two-way driveway approaches; provided that the minimum width for a one-way driveway shall be sixteen feet.

(2) Angle of Entrance. The angular placement of driveway approaches in residential, commercial and industrial areas may vary from forty-five degrees to ninety degrees inclusive. This limitation includes the entire length of the driveway approach. The angle shall be that made by the centerline of the driveway approach with the centerline of the street or with the tangent to the centerline at the point of intersection if located on a curve.

(3) Corner and Adjacent Property Line Offset.

(A) Residential driveway approaches: When residential driveway approaches are located at or near an intersection, in no case shall the distance from the intersection property corner be less than twenty feet to the near line of the driveway approach, extended to the street curb.

(B) Commercial or industrial driveway approach: When commercial or industrial driveway approaches are located at or near a street intersection, in no case shall the distance from the intersection property corner be less than fifty feet to the near line of the nearest driveway approach, as extended to the street curb or pavement edge.

(C) No commercial driveway approach shall be constructed having a tangent length, between the curb return and the property line extended, of less than twelve and one-half feet.

(4) Safety Islands. The minimum lengths of safety islands between entrances shall be twenty-five feet. Lengths of safety islands is the tangent distance between the turning radii as measured along the surface edge or curb line, measured parallel to the centerline of the street.

(5) Turning Radii.

(A) Residential driveway approaches (residential district) - Turning radii shall not exceed two feet;

(B) Commercial and industrial driveway approaches:

(i) Safety islands shall have a minimum radius of fifteen feet;

(ii) Driveway approaches shall have a minimum radius of fifteen feet.

(6) Curb Openings.

(A) Residential driveway approaches: Curb opening for residential driveway approaches shall not exceed the width of the driveway as indicated in Section 12.06.100, Paragraph (1), (A), plus four feet.

(B) Commercial driveway approaches: Curb openings for commercial driveway approaches shall not exceed sixty-five feet. (Ord. 86-55 § 1, 1986; Ord. 759 § 3, 1978.)

**12.06.105 Variances.**

(a) Any person, firm or corporation desiring to apply for a variance of the curb, gutter and drive-way design standards shall make application therefor on forms provided by the city engineer. Such application shall be accompanied by a sketch showing the following:

(1) Existing topography with contours at two-foot intervals;

(2) The location of all buildings and other structures, parking areas, drives, walks, screening, drainage structures, public streets and any existing easements on the property being remodeled or rehabilitated and on all property within two hundred feet adjacent thereto; and

(3) Sufficient dimensions to indicate relationships between buildings, property lines, parking areas, and other elements included on the sketch.

(b) Such application and sketch shall be forwarded to the city engineer for his consideration. The city engineer may grant a variance whenever he determines that such variance:

(1) Is necessary because the configurations, locations or topography of the land makes the application of the design standards impractical or impossible; and

(2) Will not hinder traffic safety; and

(3) Will not be injurious to other property in the vicinity in which the property is located.

(c) Every decision of the city engineer shall be in writing. A certified copy shall be sent by mail or otherwise to the applicant.

(d) Any person aggrieved by a decision of the city engineer in the enforcement of this title shall have the right to appeal any such decision in accordance with the following procedures:

(1) A hearing before the Olathe Governing Body may be required within thirty days of a decision of the city engineer. The Governing Body shall consider any information offered by the aggrieved person bearing on the dispute and may either modify or confirm the city engineer's decision.

(2) Any person aggrieved by a final decision of the city engineer following review by the Governing Body may seek review by a court of competent jurisdiction in the manner provided by the laws of the state. (Ord. 86-55 § 2, 1986; Ord. 932 § 1, 1979.)

**12.06.110 Standard Plans and Specifications--City Engineer.** The city engineer is authorized to prepare standard plans and specifications for the construction of a driveway approaches, sidewalk crossing and interior curbs, all in accordance with the provision contained in this chapter. It shall be the duty of the city engineer to enforce the provisions of this chapter and to supervise all work authorized by a permit. Upon completion of any such work, his approval shall be entered on the permit and he shall preserve a permanent file of his permits issued and agreements entered into under the provisions of this chapter. (Ord. 137 § 11, 1973.)

## CHAPTER 12.08

### STREET REGULATIONS

#### Sections:

12.08.010	Obstructions Unlawful.
12.08.020	Excavations--Warning Barricades and Lights.
12.08.030	Excavations--Removal of Barricades.
12.08.040	Cleated or Flanged Wheels on Pavement Prohibited--Exceptions.
12.08.050	Damage to Paving or Curbs.
12.08.060	Storage on Public Property.
12.08.070	Encumbering Streets Under Permit.
12.08.080	Excavation--Permit Required--Exception.
12.08.090	Excavation--Permit--Application--Bond.
12.08.100	Excavation--Permit--Issuance.
12.08.110	Burning on Pavements Unlawful.

**12.08.010 Obstructions Unlawful.** It is unlawful for any person, firm or corporation to obstruct any street, alley or sidewalk by placing any object, material or vehicle so as to prevent or interrupt traffic thereon unnecessarily. (Prior code § 9-101.)

**12.08.020 Excavations--Warning Barricades and Lights.** Every person who cuts any pavement or makes any excavation or obstruction in any of the public thoroughfares or public grounds within the city, or so near such public thoroughfares and public grounds as to be dangerous to those traveling upon such streets and grounds, shall establish and maintain sufficient substantial barricades about such cutting or excavation or obstruction to warn the public and prevent users of the sidewalks and public thoroughfares from being damaged because thereof. During the nighttime, such person shall, in addition to such barricades and warning signs, maintain a sufficient number of red lights and/or torches to effectively warn the users of the sidewalks and public thoroughfares of the existence of danger. (Prior code § 9-102.)

**12.08.030 Excavations--Removal of Barricades.** It is unlawful for any person to move or remove barricades or protective devices placed in accordance with Section 12.08.020 without proper authority. (Prior code § 9-103.)

**12.08.040 Cleated or Flanged Wheels on Pavement Prohibited--Exceptions.** It is unlawful for any person to drive or operate any vehicle equipped with cleated or flanged wheels upon any of the paved streets or alleys of the city, except that it shall be permissible to use tire chains of reasonable proportion upon any vehicle when required for safety because of snow or ice and except that it shall be permissible to use tires with metallic or nonmetallic studs authorized by the State Highway Commission. (Prior code § 9-104.)

**12.08.050 Damage to Paving or Curbs.** It is unlawful for any person to break or damage any paving or curb on any street or alley of the city. (Prior code § 9-105.)

**12.08.060 Storage on Public Property.** It is unlawful for any person, firm or corporation to place, leave or store, or cause to be placed, left or stored, any implements, automobiles or vehicles, tools, boxes, merchandise, goods, trash, cans, crates, or junk upon public property except for the purpose of loading or unloading the same. (Prior code § 9-106.)

**12.08.070 Encumbering Streets Under Permit.** Nothing in this code shall prevent any person, who may be improving his property, from encumbering the streets, avenues or alleys, under a permit from the proper officers of the city, but in the event of such encumbering of the streets with building material or earth, necessary for the improvement being made, the contractor shall clean up the premises thoroughly within ten days from the completion of the work. (Prior code § 9-107.)

**12.08.080 Excavation--Permit Required--Exception.**

(a) It is unlawful for any person, firm or corporation to cut pavements or excavate in a street or alley of the city without a permit issued by the Public Works Department.

(b) This section shall not apply to employees of the city or to work performed under a public improvement contract with the city, but shall apply to work performed by public utilities. (Ord. 08-82 § 1, 2008; Ord. 451 § 1, 1976; prior code § 9-108.)

**12.08.090 Excavation--Permit--Application--Bond.**

(a) Any person, firm or corporation finding it necessary to cut any sidewalk or pavement or excavate in any street, alley or public property shall first file an application and bond with the Public Works Department. The application shall set out:

- (1) The location of the proposed cut or excavation;
- (2) The purpose of the proposed work; and
- (3) The estimated time required to complete the work.

(b) The bond shall be in the penal sum of One Thousand Dollars (\$1,000.00) on a form approved by the city attorney. The bond shall be conditioned that the applicant will properly barricade and protect the cut or excavation, and that the applicant will indemnify and save harmless the city from any and all loss, damages and expenses arising out of the applicant's work. The bond shall be further conditioned that the applicant will pay to the city the cost of refilling and repairing pavement, if it is not properly done by the applicant.

(c) If the applicant has on file a valid plumber's bond, no bond shall be required with the application.

(d) No bond will be required for the replacement of a residential driveway. (Ord. 08-82 § 2, 2008; Ord. 02-105 § 1, 2002.)

**12.08.100 Excavation--Permit--Issuance.** Upon the filing of the application and approval of the bond in accordance with Section 12.08.090, the city clerk shall issue a permit to the applicant to proceed with the work. (Ord. 451 § 3, 1976; prior code § 9-110.)

**12.08.110 Burning on Pavements Unlawful.** It is unlawful for any person to accumulate or burn any leaves, trash or any other combustibles in or upon any street, alley or public way on any pavement or asphaltic surfacing of any kind. (Prior code § 9-111.)

## CHAPTER 12.12

### SIDEWALKS\*

#### Sections:

12.12.010	Property Owners--Dangerous Adjacent Sidewalk Unlawful.
12.12.020	Repair and Construction.
12.12.030	Snow, Ice and Mud--Removal by Owner.
12.12.040	Snow, Ice and Mud--City Removal--Special Assessment.
12.12.050	Use by Service Stations.
12.12.060	Construction--When Required.
12.12.070	Construction on Right-of-way--Application.
12.12.080	Sidewalk Plans and Specifications.
12.12.090	Construction--Approval or Disapproval--Appeal.

**12.12.010 Property Owners--Dangerous Adjacent Sidewalk Unlawful.** It is unlawful for any owner of property within the city to permit a sidewalk adjacent to his property to remain in bad repair or in such condition as to create a hazard to persons using the sidewalk. (Prior code § 9-205.)

**12.12.020 Repair and Construction.** Whenever the Governing Body determines that any sidewalk is in need of repair, or that any new sidewalk is necessary, the Governing Body shall proceed in accordance with the provisions of K.S.A. Article 18 of Chapter 12. (Prior code § 9-206.)

**12.12.030 Snow, Ice and Mud--Removal by Owner.** It is hereby made the duty of the owner or the occupant of any lot or lots abutting upon any sidewalk in the city to cause to be removed from such sidewalks all snow, ice and mud and to keep such sidewalk at all times free from the accumulation of snow, ice and mud. (Prior code § 9-207.)

**12.12.040 Snow, Ice and Mud--City Removal--Special Assessment.** If any owner or occupant of any lot or lots refuses or neglects to clean or remove from sidewalks abutting the lot or lots all snow, ice or mud, the city may cause all snow, ice or mud to be removed from the sidewalk and shall assess the cost of such removal against such abutting lot or lots and such cost shall be collected in the same manner as is required for the building of sidewalks. (Prior code § 9-208.)

**12.12.050 Use by Service Stations.** It is unlawful for any person, firm or corporation to supply or sell any gasoline, oil or other service station products, or any service incident thereto, to any motor driven vehicle, or to the owner or operator thereof, when or while the motor vehicle is parked upon or occupying any portion of any public sidewalk adjacent to the service station, nor stretch any gasoline or air hose across the public sidewalk, nor to use the public sidewalk for any purpose interfering with the intended use of the sidewalk as such by pedestrians. (Prior code § 9-209.)

**12.12.060 Construction--When Required.** Any person, firm or corporation hereinafter applying for a building permit for any structure may be required by the city planning commission to construct sidewalks on one or both sides of streets adjacent to the parcel of land associated with such building permit, when the city planning commission finds any one or more of the following:

(1) No sidewalk exists and the installation of a new sidewalk will promote safety;

(2) The existing sidewalk is inadequate, unsafe, or in a state of disrepair. (Ord. 26-C § 1, 1968; prior code § 9-211.)

**12.12.070 Construction on Right-of-way--Application.** Any person proposing to construct any sidewalk upon or adjacent to any city right-of-way shall apply to the city engineer for approval of the location, dimensions, design and construction methods and materials of such sidewalk. The application shall be in writing and shall contain such information including maps, plats, diagrams, detailed drawings and specifications as the city engineer may require. (Ord. 26-C § 2, 1968; prior code § 9-212.)

#### **12.12.080 Sidewalk Plans and Specifications.**

(1) All sidewalks hereafter constructed, repaired or reconstructed shall be of single course Class "A" Portland cement concrete, and shall have a minimum width of four feet and minimum thickness of four inches.

(2) All sidewalks shall be located in the platted street right-of-way, at least one foot from the edge of the street right-of-way line.

(3) Sidewalks shall be installed on both sides of all thoroughfares and collector streets and on one side of all local residential streets, except that sidewalks shall not be required on local residential streets in large lot subdivisions. Sidewalks shall be required on peripheral streets in industrial parks. (Ord. 382 § 1, 1975; Ord. 26-C § 3, 1968; prior code § 9-213.)

**12.12.090 Construction--Approval or Disapproval--Appeal.** If the city engineer finds that any such proposed sidewalk will conform to accepted standards and to existing sidewalks in the same general locality, if any, and will not detract from property values, he shall issue his approval in writing. Otherwise, he shall disapprove such sidewalk in writing. Any interested person may appeal such approval or disapproval to the city planning commission by filing notice with the city clerk within ten days, which in the case of an appeal from an approval of the city engineer shall thereupon suspend such approval. (Ord. 26-C § 4, 1968; prior code § 9-214.)

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\*For statutory provisions pertaining to sidewalks, see K.S.A. 12-1801 and the sections that follow.

## **CHAPTER 12.16**

### **TREES AND SHRUBS\***

#### **Sections:**

- 12.16.010 Damaging Prohibited.
- 12.16.020 Trees Overhanging Public Property--Trimming Required.
- 12.16.030 Trees and Shrubs on Public Property--Duty of Adjacent Property Owner.
- 12.16.040 Traffic Hazard--Removal Notice.
- 12.16.050 Traffic Hazard--Failure to Remove--Removal by City--Special Assessment.
- 12.16.060 Diseased or Infected Trees--Removal--Notice--Special Assessment.
- 12.16.070 Penalties.

**12.16.010 Damaging Prohibited.** No person shall willfully, maliciously or without lawful authority, cut down, root up, sever, peel, or otherwise injure or destroy, any fruit tree, shade or ornamental tree, cultivated root, or plant, grape or strawberry vine, shrub or bush whatever, the property of another, or standing on or attached to the land of another, or shall pick, destroy, or carry away therefrom, or in any way interfere with any part of the fruit thereof, or shall trespass upon the premises of another with such unlawful intent, or shall, willfully and without lawful authority, cut down, root up, or destroy, or in any manner injure or destroy any fruit, shade or ornamental tree, shrub or vine, planted or growing on any street, lane, alley or public grounds. (Prior code § 9-401.)

**12.16.020 Trees Overhanging Public Property--Trimming Required.**

(a) It shall be the duty of every owner, agent or occupant of any lot or parcel of land adjoining or contiguous to any street or alley to cause all trees upon such premises which may overhang or project over such street or alley, to be so trimmed and maintained as to keep the branches thereof to a height of not less than ten feet from the level of the street, alley or sidewalk.

(b) Any tree or shrub which overhangs any sidewalk, street or public place in the city in such a way as to impede or interfere with traffic or travel, or within twenty feet of a street, shall be trimmed by the owner of the premises abutting or of the premises on which such tree or shrub grows so that the obstruction shall cease. Any tree or limb of a tree which has become likely to fall on or across any public way or place shall be removed by the owner of the premises of which such tree grows or stands. The street department, under the direction of the commissioner of streets, may trim any such tree or shrub or remove any such tree or branch thereof so that the obstruction or danger to traffic or passage shall be done away with. (Prior code §§ 9-403, 9-404.)

**12.16.030 Trees and Shrubs on Public Property--Duty of Adjacent Property Owner.** Any person, firm, partnership or corporation owning any lot, piece or parcel of land shall be required to maintain all trees and shrubbery upon all streets, alleys, avenues and boulevards adjacent and abutting the lot, piece or parcel of land, and shall be further responsible for the treatment of diseased trees and shrubbery or the removal of trees and shrubbery that are dead or have reached a condition where they are dangerous to the public using the streets. (Prior code § 9-405.)

**12.16.040 Traffic Hazard--Removal Notice.** If the chief of police determines that any tree or shrubbery located upon any street, alley, avenue or parking constitutes a traffic hazard, by dangerously obstructing the view of drivers of vehicles entering a street from an intersecting street, he shall notify the owner of the abutting property to remove the same, and it shall be the duty of such person to remove the same. (Prior code § 9-406.)

**12.16.050 Traffic Hazard--Failure to Remove--Removal by City--Special Assessment.** If the Governing Body determines that the owner of property abutting upon any street, alley, avenue or parking has failed to comply with the requirements of Section 12.16.040, he shall, after reasonable notice and direction to the owner to comply therewith, cause the work to be done by the city, and the cost of work shall be assessed against the abutting property as a special assessment, to be collected. The city clerk shall certify the same to the county clerk to be entered on the tax rolls and collected in the same manner as real property taxes. Such notice and directions shall be given to the owner of abutting property by the city clerk by mail addressed to the owner's last known address, or if the same is unknown to the city clerk, then by posting such notice on the abutting property.

The city clerk shall prepare a notice in letter form, which notice shall contain the information as to the location of trees or shrubbery and the legal description of adjoining and abutting property. The notice shall contain a statement as to the condition of the tree or shrubbery and whether it shall be trimmed, treated or removed. Such statement shall inform the owners that upon failure to comply with the requirements set forth in the notice, the city will, by its regular departments, trim, treat or remove such tree or shrubbery or contract for such trimming, treatment or removal, as the case may be.

For the purpose of this chapter, the notice required herein shall be ten days and the notice may be either served in person upon a form to be provided by the city clerk on the owner or owners and/or to the registered owner by first-class mail, duly certified or registered. (Prior code § 9-407.)

**12.16.060 Diseased or Infected Trees--Removal--Notice--Special Assessment.** Whenever any competent city authority, or competent state or federal authority when requested by the Governing Body files 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 infested with or harbor any tree or plant disease or insect pest or larvae, the uncontrolled presence of which may constitute a hazard to or result in the damage or destruction of other trees or shrubs in the community, describing the same and where located, the Governing Body shall direct the city clerk to issue notice requiring the owner or agent of the owner of the premises to treat or remove any such designated tree, tree material or shrub within a time specified in such notice. The notice shall be served by the city marshal or other police officer by delivering a copy thereof to the owner or agent 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 last known address. If the owner or agent fails to comply with the requirements of the notice within the time specified in the notice, then the superintendent of streets and parks shall proceed to have the designated tree, tree material or shrub treated or removed and report the cost thereof to the city clerk, and the cost of such treatment or 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, tree material or shrub 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 county against the lot or parcel of ground. (Prior code § 9-408.)

**12.16.070 Penalties.** Any person, firm or corporation violating or refusing to perform any of the actions required by any of the provisions of any of the sections in this chapter shall be punished as provided in Section 1.16.010 of this code. (Ord. 765 § 1, 1978.)

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\*For statutory provisions pertaining to trees and shrubs in streets and alleys, see K.S.A. 12-3201.

## CHAPTER 12.21

### PARKS AND RECREATIONAL AREAS

#### Sections:

12.21.010	Definitions
12.21.020	City Laws Extended to Parks and Recreational Areas
12.21.030	Police Jurisdiction over Parks and Recreational Areas
12.21.040	Rules and Regulations
12.21.050	Preservation of Natural State
12.21.060	Damaging Park or Recreational Area Property
12.21.070	Motor Vehicle Regulations
12.21.080	Swimming, Bathing and Wading in City Lakes, Parks and Recreational Areas – Prohibited
12.21.090	Boating – State License Required
12.21.100	Boating – No Wake
12.21.110	Personal Watercraft Prohibited
12.21.120	Boating – Requiring Certain Persons to Wear Lifesaving Devices
12.21.130	Towing – Prohibited
12.21.140	Temporary Suspension of Boating
12.21.150	Firearms, Weapons, Explosives – Prohibited
12.21.160	Hunting – Prohibited
12.21.170	Fishing License; Regulations
12.21.180	Ice Skating and Other Activities
12.21.190	Metal Detectors, Mining and Prospecting – Prohibited
12.21.200	Fires
12.21.210	Camping – Prohibited
12.21.220	Sanitation
12.21.230	Prohibition Against Alcoholic Beverages and Cereal Malt Beverages
12.21.240	Sale of Food, Drink and Merchandise in Parks and Recreational Areas
12.21.250	Unlawful Use of Field or Shelter
12.21.260	Hours of Use – Exceptions
12.21.270	Violations and Penalties
12.21.280	Severability

**12.21.010 Definitions.** For the purposes of this Chapter, the following words and phrases shall be defined as follows:

A. “Boat” means any vessel, except personal watercraft, designed to be propelled by human power, machinery, oars, paddles, wind action, or upon a sail for navigation on the water, including, but not limited to, canoes, rafts, sailboats, windsurfing boards, boats with electric trolling motors, boats with motors or unmotorized boats, rowboats, paddle boats or wading tubes.

B. “Firearm(s), weapon(s) or explosives” are as defined in Chapter 9.12 of the Olathe Municipal Code and for purposes of Chapter 12.21 shall include any air gun, air rifle, bow and arrow, slingshot, paint gun or BB gun and further shall include fireworks as defined and prohibited at Olathe Municipal Code 16.05.010 Section 3301.

C. “Life saving device” means an United States Coast Guard approved Type I, Type II or Type III personal floatation device.

D. “Motor vehicles” shall mean every vehicle which is self-propelled and every vehicle which is propelled by electric power including, but not limited to, automobiles, motorcycles, motor-driven cycles, motor homes, and motorized bicycles.

Motor vehicles shall include any vehicle licensed to operate on public streets, roads or highways and shall include motorized off-road vehicles including, but not limited to, dirt bikes, go-carts, and snowmobiles. Motor vehicles shall not include motorized wheelchairs designed for and used by physically handicapped persons or segways used by physically handicapped persons when either is incapable of a speed in excess of fifteen (15) miles per hour.

E. "Park Director or Director" means the City of Olathe, Kansas Director of Parks and Recreation or his/her designated representative.

F. "Park Ranger" means the City of Olathe, Kansas Park Ranger(s).

G. "Park Superintendent" means the City of Olathe, Kansas Park Superintendent or his/her designated representative.

H. "Park(s) and recreational area(s)" means all park properties, to include but not limited to trails, undeveloped and developed parks and green spaces, recreational facilities, swimming pools, shelters, waterbodies, etc.

I. "Personal Watercraft" means a vessel of less than sixteen (16) feet in length, as manufactured, that uses a motor powering water jet pump as the primary source of motive power and that is designed to be operated by a person or persons sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel. The term includes, but is not limited to, Jet Ski, Waverunner and Sea Doo. (Ord. 08-69 § 2, 2008; Ord. 87-40 § 1, 1987; Ord. 410 § 1, 1976.)

**12.21.020 City Laws Extended to Parks and Recreational Areas.** The laws of the City shall extend to and be applicable in all City parks and recreational areas. (Ord. 08-69 § 2, 2008; Ord. 98-25 § 1, 1998; Ord. 83-14 § 2, 1983; Ord. 410 § 3, 1976.)

**12.21.030 Police Jurisdiction over Parks and Recreational Areas.** The Chief of Police and law enforcement officers of the City shall have full power to enforce City laws governing City parks and recreational areas and shall maintain order therein. (Ord. 08-69 § 2, 2008; Ord. 89-22 § 2, 1989; Ord. 87-40 § 3, 1987; Ord. 83-89 § 2, 1983; Ord. 83-14 § 2, 1983; Ord. 80-112 § 2, 1980.)

**12.21.040 Rules and Regulations.** The Director is authorized to establish rules and regulations pertaining to the use of parks and recreational areas and activities therein. The rules and regulations may be amended by the Director from time to time. A copy of the rules and regulations shall be available at the office of the Director during regular hours of operation. It shall be unlawful to violate the rules and regulations. (Ord. 08-69 § 2, 2008.)

**12.21.050 Preservation of Natural State.** It shall be unlawful for any person, except duly authorized City employees, to take, injure, or disturb any live or dead tree, plant, shrub, or flower, or otherwise interfere with the natural state of City parks and recreational areas. (Ord. 08-69 § 2, 2008; Ord. 89-128 § 1, 1989; Ord. 85-65 § 6, 1985; Ord. 410 § 6, 1976.)

**12.21.060 Damaging Park or Recreational Area Property.** It shall be unlawful for any person, except duly authorized City employees, to willfully or wantonly remove, injure, tarnish, deface or destroy any building, walk, bench, tree or improvement or property of any kind belonging to any City park or recreational area. (Ord. 08-69 § 2, 2008; Ord. 91-78 § 1, 1991; Ord. 89-128 § 2, 1989; Ord. 85-65 § 6, 1985; Ord. 82-54 § 1, 1982; Ord. 80-73 § 1, 1980; Ord. 609 § 3, 1977.)

**12.21.070 Motor Vehicle Regulations.**

A. Regulations:

1. Motor vehicles shall not be operated in City parks and recreational areas except in areas designated by the Director for such use and only when operated in a safe and prudent manner.

2. Except as provided in subsection 4, it shall be unlawful for any person to park any motor vehicle in any area within City parks or recreational areas not designated by signage for such purpose.

3. Except as provided in subsection 4, it shall be unlawful for any person to operate any motor vehicle within any City parks or recreational areas except upon roads, drives and parking areas established by the City.

4. Subsections 2 and 3 above shall not apply to authorized federal, state or City employees while engaged in law enforcement activities or in the maintenance and care of the parks and recreational areas.

5. It shall be unlawful to operate any motor vehicle in any City park or recreational area at a speed in excess of twenty (20) miles per hour.

6. It shall be unlawful to fail to obey any traffic sign indicating speed, direction, caution, stopping, or parking, and all other signs posted for proper traffic control and to safeguard life and property within City parks and recreational areas.

B. The provisions of the Olathe Traffic Ordinance, as set out in Chapter 10.01 of the Olathe Municipal Code, and amendments thereto, shall be applicable where possible in all City parks and recreational areas.

C. The penalties imposed by the Olathe Traffic Ordinance shall apply to any person convicted of violating any of the provisions of Chapter 10.01.

D. The penalties imposed by 12.21.270 of this Chapter shall apply to any person convicted of violating a provision other than the provisions of Chapter 10.01. (Ord. 08-69 § 2, 2008.)

**12.21.080 Swimming, Bathing and Wading in City Lakes, Parks and Recreational Areas – Prohibited.** It is unlawful for any person to swim, bathe or wade in any City lake, park or recreational area, except as provided in subsections A, B and C below:

A. Persons may enter waters where designated by official City signage as an approved swimming or wading area.

B. Persons who are equipped with wading gear designed for fishing activities, to include fishing float tubes, may enter waters.

C. Persons may enter waters by obtaining a special use permit from the Director or the Director's designated representative and then only in conformity with the provisions of the permit. (Ord. 08-69 § 2, 2008; Ord. 85-65 § 6, 1985; Ord. 80-73 § 2, 1980; Ord. 410 § 8, 1976.)

**12.21.090 Boating – State License Required.** It shall be unlawful to operate any boat on any City lake, pond or waterway without having first obtained a required State of Kansas boating license. Operation of a boat shall be allowed between the posted City park opening time and one hour prior to the posted City park closing time. (Ord. 08-69 § 2, 2008; Ord. 410 § 9, 1976.)

**12.21.100 Boating – No Wake.** It shall be unlawful to operate any boat on any City lake at a speed which creates a wake or in excess of five (5) miles per hour unless by wind speed alone except for federal, state or City entities in the performance of their official duties. (Ord. 08-69 § 2, 2008; Ord. 410 § 10, 1976.)

**12.21.110 Personal Watercraft Prohibited.** It shall be unlawful to operate any personal watercraft on any City lake, pond or waterway except for official City, state or federal business. (Ord. 08-69 § 2, 2008; Ord. 92-28 § 1, 1992; Ord. 764 § 1, 1978; Ord. 410 § 11, 1976.)

**12.21.120 Boating – Requiring Certain Persons to Wear Lifesaving Devices.** The operator of every boat shall require every person twelve (12) years of age or under to wear an United States Coast Guard approved Type I, Type II or Type III personal floatation device while aboard such boat. A life belt or ring shall not satisfy the requirement of this section. (Ord. 08-69 § 2, 2008; Ord. 410 § 12, 1976.)

**12.21.130 Towing – Prohibited.**

A. Except as provided in subsection C, it shall be unlawful for the operator of a boat to tow another boat or a person outside the confines of the boat whether by the use of water skis, wakeboard, inner tube, rope or by any other means.

B. Except as provided in subsection C, it shall be unlawful for any person to be towed by a boat while using water skis, wake board, inner tube, or otherwise outside the confines of the boat.

C. Subsections A and B above shall not apply to authorized federal, state or City employees while engaged in the performance of their official duties. (Ord. 08-69 § 2, 2008; Ord. 81-87 § 2, 1981; Ord. 410 § 13, 1976.)

**12.21.140 Temporary Suspension of Boating.** Whenever the Director determines that water levels at any City lake are so low that boating has become unsafe, the Director shall issue an order to stop boating activity. Such order may include motorized boating, non-motorized boating, or both. Such order shall be posted at conspicuous locations at the City lake(s). (Ord. 08-69 § 2, 2008; Ord. 81-87 § 1, 1981; Ord. 410 § 14, 1976.)

**12.21.150 Firearms, Weapons, Explosives – Prohibited.**

A. Except as provided in subsection B, it shall be unlawful for any person, not licensed under the Kansas Personal and Family Protection Act (KSA 75-7c01 et seq) or a resident of another state holding a valid license to carry a concealed firearm for such other state, to carry in violation of Chapter 9.12 of the Olathe Municipal Code or to have in his or her possession or to have within the confines of any motor vehicle, boat or personal watercraft, any firearm, weapon or explosive or to shoot or discharge the same within the limits of any City park or recreational area.

B. The provisions of subsection A above shall not apply to duly authorized law enforcement officers in the performance of official duties or any person summoned by such officer(s) while actually engaged in assisting such officer(s).

C. The provisions of subsection A shall not apply to ceremonial firing squads or public events approved by the Chief of Police or a designated representative pursuant to 9.12.050 of the Olathe Municipal Code. (Ord. 08-69 § 2, 2008; Ord. 81-87 § 1, 1981; Ord. 410 § 15, 1976.)

**12.21.160 Hunting – Prohibited.** It shall be unlawful for any person to pursue, catch, trap, maim, kill, shoot or take any wildlife, either bird or animal, in any manner at any time while in any City park or recreational area except at the express written direction of the Director.

A. The provisions of the above section shall not apply to City employees acting at the direction of the Director or in the performance of their official duties. (Ord. 08-69 § 2, 2008; Ord. 410 § 16, 1976.)

**12.21.170 Fishing License; Regulations.** Any person fishing in any City lake, including lakes leased to the City, shall not use bank trot or set lines, shall comply with all applicable state fishing laws, including, but not limited to, fishing license regulations pursuant to K.S.A. 32-906, et seq. and as amended; and comply with all state laws regarding fishing regulations and catch and release limits pursuant to K.S.A. 32-1001, et seq. and as amended unless otherwise posted by the Parks and Recreation Department. (Ord. 08-69 § 2, 2008; Ord. 410 § 17, 1976.)

**12.21.180 Ice Skating and Other Activities.** It shall be unlawful for any person, except duly authorized City employees, to ice skate, ice fish, sled, drive or walk on or in the ice of any City lake or waterbody. (Ord. 08-69 § 2, 2008; Ord. 410 § 18, 1976.)

**12.21.190 Metal Detectors, Mining and Prospecting – Prohibited.** It shall be unlawful for any person, except duly authorized City employees to operate a metal detector, or mine or prospect for any mineral or other object, in any park and recreational area without the written permission of the Director. (Ord. 08-69 § 2, 2008; Ord. 410 § 19, 1976.)

**12.21.200 Fires.** It shall be unlawful for any person to build or kindle any fire in any City park and recreational area except in the fire pits, fire rings, ovens, stoves, or grills provided for that purpose by the City, and such fire must be extinguished by the person, persons or parties starting such fire, immediately after use thereof. (Ord. 08-69 § 2, 2008; Ord. 410 § 20, 1976.)

**12.21.210 Camping – Prohibited.** Overnight camping is hereby prohibited in City parks and recreational areas except where posted or by written permission of the Director in designated areas approved by the Parks and Recreation Department. (Ord. 08-69 § 2, 2008; Ord. 410 § 21, 1976.)

**12.21.220 Sanitation.** All waste material, paper, trash, rubbish, tin cans, bottles, containers, garbage and refuse of any kind whatsoever shall be deposited in disposal containers provided for such purposes. No such waste or contaminating material shall be discarded otherwise. No sticks, stones, trash or other objects shall be thrown or discarded in or on any park lands, fountains, pools, drinking fountains, sanitary facilities, or other improvements. (Ord. 08-69 § 2, 2008; Ord. 95-22 § 1, 1995; Ord. 89-129 § 1, 1989; Ord. 410 § 22, 1976.)

**12.21.230 Prohibition Against Alcoholic Beverages and Cereal Malt Beverages.** It shall be unlawful for any person or persons to bring, use, consume or possess on the premises of any City park or recreational area any alcoholic liquor or cereal malt beverage, except as is provided for in Olathe Municipal Code Sections 7.02.040 and 7.02.050. (Ord. 08-69 § 2, 2008; Ord. 89-129 § 2, 1989; Ord. 83-35 § 1, 1983.)

12.21.240 Sale of Food, Drink and Merchandise in Parks and Recreational Areas.

A. No person, firm, corporation, association or other group shall sell any food, food product or drinks of any kind in any City park or recreational area.

B. EXCEPTIONS:

1. The Parks and Recreation Department of the City of Olathe may operate food and drink concessions in public parks.

2. Any miniature golf course or batting cage concessionaire.

3. Any non-profit firm, corporation, association or civic group which has been granted a temporary concession license by the City Manager, or his/her designated representative.

C. TEMPORARY CONCESSION LICENSE.

1. Temporary concession licenses may be granted by the City Manager, or his/her designated representative, for special events to any non-profit firm, corporation, association or civic group.

2. Each non-profit, firm, corporation, association, or civic group desiring to apply for a temporary concession license as a concessionaire to sell food, drink or merchandise in any park or recreational area shall file an application therefor with the City Manager, or his/her designated representative. The application shall contain the following information:

(a) The name and address of the applicant. If the applicant represents an organization, then the applicant must also include the name and address of the organization, the name and telephone number of the chief officer of the organization, and if the organization is for profit or not for profit.

(b) The location where the applicant proposes to sell food, drink and/or merchandise.

(c) The types of food, drink or merchandise proposed to be sold.

(d) The reason for the request.

(e) A description of any buildings or equipment owned by the City and desired to be used by the concessionaire.

(f) The equipment which the concessionaire plans to use, including not only food preparation and food serving equipment but also any cart or building proposed to be used in the preparation.

(g) The prices proposed to be charged for the various items of food, drink and/or merchandise.

3. Any non-profit firm, corporation, association or civic group receiving a temporary concession license under this section shall not change any part of the operation described in the application, including equipment, food or drink served, merchandise to be offered for sale, or prices, without applying to the City Manager or his/her designated representative for approval of the change and receiving approval of the change.

4. Each concessionaire shall pay a temporary concession license fee prior to issuance of the license. Such fee shall be adopted by the Governing Body of the City by resolution.

5. The licensee shall comply with all health rules, regulations and laws of the City, county and state concerning the sale and preparation of food and drink.

6. Each temporary license shall be for a specified period of time which shall not be extended and shall not be transferable.

7. The license may be denied or revoked by the City Manager, or his/her designated representative, for any of the following reasons:

(a) If a license was fraudulently obtained by giving false information on any substantial matter in the application;

(b) If the licensee has violated any of the provisions of this section or any other ordinance or any laws of the state relating to the sale of food, drink or merchandise; and/or

(c) For conducting business in an unlawful manner or in a manner constituting a breach of the peace or a menace to the health, safety and general welfare of the public.

8. Any licensee aggrieved by the revocation of his or her license by the City Manager, or his/her designated representative, may appeal to the Governing Body. (Ord. 08-69 § 2, 2008; Ord. 410 § 24, 1976.)

**12.21.250 Unlawful Use of Field or Shelter.** It shall be unlawful for any person or group to occupy and fail to remove themselves from any field, shelter, or shelter house within a park and recreational area when requested to do so by a person or group with a reservation for that field, shelter or shelter house on that date and time or when requested to do so by a Park Ranger or law enforcement officer of the City. (Ord. 08-69 § 2, 2008; Ord. 410 § 25, 1976.)

**12.21.260 Hours of Use – Exceptions.** It is unlawful for any person to be in, upon or use any park or recreational area of the City between the hours of midnight and sunrise, or in violation of posted hours or when the park or recreational area is closed by order of the Director.

A. This section shall not apply to any City employee or contractor while performing work on behalf of the City.

B. This section shall not apply to any law enforcement officer or public safety personnel while in performance of official duties.

C. This section shall not apply to any park or recreational area where the Director determines that the proposed activity or use of the park or recreational area will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation and that park or recreation area is either so posted or the Director so issues a written exception and authorization for such use. (Ord. 08-69 § 2, 2008; Ord. 410 § 26, 1976.)

**12.21.270 Violations and Penalties.** It shall be unlawful for any person, firm, corporation or other group to violate any provision of this Chapter.

A. Any person convicted of a violation of this Chapter, as amended, which violation constitutes a violation of the Olathe Traffic Ordinance, shall be penalized as set forth in the Olathe Traffic Ordinance, as amended.

B. Any person, firm, corporation or other group convicted of violating this Chapter, as amended, shall be guilty of a Class B Public Offense and shall be punished jointly or severally by a fine not to exceed One Thousand Dollars (\$1,000) or by a definite period of confinement in jail which shall be fixed by the Court and shall not exceed one hundred eighty (180) days, or both, unless otherwise specifically provided in this Chapter.

C. Each day during or upon which a violation occurs or continues shall constitute a separate offense and shall be punishable as such hereunder. (Ord. 08-69 § 2, 2008; Ord. 410 § 27, 1976.)

**12.21.280 Severability.** The provisions of this ordinance are severable. If any part of parts of this Chapter shall be held to be invalid, the remaining provisions and the application of those provisions shall not be affected by such invalidity. (Ord. 08-69 § 2, 2008; Ord. 410 § 28, 1976.)

## CHAPTER 12.22

### SWIMMING POOL REGULATIONS

**Sections:**

12.22.010	Rules and Regulations.
12.22.020	Pool Managers-- Powers and Duties.
12.22.030	Bathing Suits Required.
12.22.040	Diseased Persons Prohibited.
12.22.050	Refusal of Admission.
12.22.060	Throwing Articles Prohibited.
12.22.070	Animals Prohibited.
12.22.080	Children Required to be Accompanied by Adult.
12.22.090	Hours.
12.22.100	Identification Card Required for Admission.
12.22.110	Identification Card Non-transferrable
12.22.115	False Statements on Applications.
12.22.120	Fees
12.22.130	Rules Posted
12.22.140	Violations--Penalty

**12.22.010 Rules and Regulations.** The municipal swimming pools of the city shall be open to the public at all appropriate times, subject to such rules and regulations herein contained and as the Governing Body of the city may from time to time adopt or authorize and as provided by the rules and regulations of the Kansas State Board of Health. (Ord. 89-22 § 1, 1989.)

**12.22.020 Pool Manager--Power and Duties.** The city manager shall appoint pool managers and other employees of the swimming pools. The pool managers shall have general supervision over the swimming pool and over all people attending the same.

It shall be their duty to preserve order, to enforce all provisions of this chapter and the rules and regulations of the city and the Kansas State Board of Health, and the pool managers may exclude any person or persons from the pools and there grounds for the violation of these ordinances, such rules and regulations as may be made by the Governing Body of the city, or the Kansas State Board of Health. (Ord. 89-22 § 1, 1989.)

**12.22.030 Bathing Suites Required.** It is unlawful and a violation of this chapter for any person or persons at any time to enter the waters of any municipal swimming pool, at any time, in any clothing or apparel other than a bathing suit, or a bathing apparel, except if the person is taking a supervised course in lifesaving. (Ord. 89-22 § 1, 1989.)

**12.22.040 Diseased Persons Prohibited.** It is unlawful and a violation of this chapter for any person or persons at any time to enter the waters of any municipal pool who are afflicted with any venereal, infectious or contagious disease. The pool manager is authorized, directed and empowered within his discretion to require from any person requesting permission to enter the swimming pool, a certificate of health from a licensed doctor of medicine, dated within three days of the date admission is sought, stating that the person applying for admission to the pool is free from any infectious or contagious disease, which might endanger the health of other occupants of the pool. (Ord. 89-22 § 1, 1989.)

**12.22.050 Refusal of Admission.** The pool managers are authorized, directed and empowered to refuse admission to any person applying for admission to any pool who is known to be intoxicated or under the influence of drugs or opiates, or any person having infectious or contagious skin disease, open sores or cuts. (Ord. 89-22 § 1, 1989.)

**12.22.060 Throwing Articles Prohibited.** It is unlawful for any person or persons to throw or place in the swimming area, in the water of any municipal pool, any stones, debris, refuse or discarded substances or articles of any kind. It is further unlawful for any person in any manner willfully to pollute the waters of any municipal pool. (Ord. 89-22 § 1, 1989.)

**12.22.070 Animals Prohibited.** It is unlawful and a violation of this chapter for any person to place any dog or any animal of any kind in the water of any municipal; swimming pool or to cause any dog or any animal of any kind to enter or be therein. (Ord. 89-22 § 1, 1989.)

**12.22.080 Children Required to be Accompanied by Adult.** All children under the age of seven (7) years shall be accompanied by a parent or guardian or by some adult who shall be responsible for their safety and conduct while in the main pools. (Ord. 89-22 § 1, 1989.)

**12.22.090 Hours.** The hours during which the municipal swimming pools shall be open for use shall be determined by the city manager. The pool managers shall have the authority to close the pool during inclement weather or periods of limited demand or in case of emergency, and it is unlawful for any person or persons to enter the water of the pools except when the pool managers or lifeguards are in charge of the same and on duty. (Ord. 89-22 § 1, 1989.)

**12.22.100 Identification Card Required for Admission.** No person or persons with a season ticket shall be admitted to the municipal swimming pool areas who shall not possess a properly issued identification card. The identification card shall contain proper wording or initials as approved by the director of Community Services. Abuse or misuse of the card shall result in the forfeiture of the card. (Ord. 97-43 § 1, 1997; Ord. 89-22 § 1, 1989.)

**12.22.110 Identification Card Nontransferable.** It shall be unlawful for any person to whom an identification card is issued for admittance to the municipal swimming pool to transfer, sell or otherwise convey the same to any other person. (Ord. 97-43 § 2, 1997; Ord. 89-22 § 1, 1989.)

**12.22.115 False Statements on Applications.** It shall be unlawful and a violation of this chapter for any person to make any false statements or to willfully misrepresent or misstate any facts or to cause any misrepresentations or misstatement of any facts in the application for any municipal swimming pool identification card, permit or ticket with intent to defraud or induce official action. (Ord. 97-43 § 3, 1997; Ord. 93-19 § 1, 1993.)

**12.22.120 Fees.** The charges for public use of the swimming pools shall be adopted by the Governing Body of the City by resolution. (Ord. 02-140 § 1, 2002; Ord. 02-21 § 1, 2002; Ord. 01-17 § 1, 2001; Ord. 97-43 § 4, 1997; Ord. 95-21 § 1, 1995; Ord. 94-11 § 1, 1994; Ord. 93-10 § 1, 1993; Ord. 91-65 § 1, 1991; Ord. 91-07 § 1, 1991; Ord. 89-130 § 1, 1989; Ord. 89-22 § 1, 1989.)

**12.22.130 Rules Posted.** The Governing Body shall make, and the pool managers are authorized to enforce, such additional rules and regulations as may be necessary for the management and operation of the swimming pools. Copies of all rules shall be posted in conspicuous places about the swimming pools as may be determined by the pool managers. (Ord. 89-22 § 1, 1989.)

**12.22.140 Violation--Penalty.** Any person or persons violating any of the provisions of this chapter declared to be unlawful shall, upon conviction thereof, be find in any sum not exceeding One Hundred Dollars (\$100.00), or confined in the county jail for a period not exceeding ninety (90) days, or by both such fine and imprisonment, provided, that nothing herein shall be construed to deny the authority of the pool managers to exclude persons therefrom who shall not conduct themselves in accordance with the rules for the government of the swimming pools. (Ord. 89-22 § 1, 1989.)

## CHAPTER 12.24

### CITY CEMETERY

#### Sections:

12.24.010	Authority in the Parks and Recreation Department.
12.24.020	Rules and Regulations.
12.24.030	Establishment of Potter's Field.
12.24.040	Infant Memorial Plot.
12.24.050	Lots--Purchase Prices.
12.24.060	Opening Graves--Charges.
12.24.070	Trees and Shrubs.
12.24.080	Dogs in Cemetery.
12.24.090	Advertisements.
12.24.100	Vehicles.
12.24.110	Penalty.

**12.24.010 Authority in the Parks and Recreation Department.** The Department of Parks and Recreation shall manage, operate and maintain the city cemetery subject to any limitations and restrictions set forth herein or contained in any applicable law. (Ord. 83-10 § 2 (part), 1983.)

**12.24.020 Rules and Regulations.** The Department of Parks and Recreation shall establish rules and regulations for the use of the city cemetery relating to:

- (a) Subdividing of cemetery lots;
- (b) Capacity of each lot;
- (c) Interment methods and procedures;
- (d) Hours of operation;
- (e) Location of graves;
- (f) Type of planting, monuments and markers that will be permitted for the proper and most attractive development of the Cemetery;

- (g) Purchasing of lots;
- (h) Collection of fees and charges;
- (i) Records of ownership.

(Ord. 83-10 § 2 (part), 1983.)

**12.24.030 Establishment of Potter's Field.** All that part of the cemetery known and designated as Blocks 1, 2, 3, 4, 19, 20, 21, 22, 23, 24, 25, 26, 41, 42, 43, 44, 45, 46, 47, 48, 63, 64, 65 and 66 shall be set apart as a Potter's Field. (Ord. 83-10 § 2 (part), 1983.)

**12.24.040 Infant Memorial Plot.**

(a) Lots 1 to 12, inclusive, Block 2, Second Addition, are hereby set aside exclusively for burial sites for infants. The lots shall be replatted into one hundred fifty-one grave sites, each three feet by five feet, and shall be known as the "infant memorial plot.

(b) No monument or stone erected on any grave site in the plot shall be over twenty inches in length and ten inches in width and shall be set flat with the ground. No flowers, shrubs or trees shall be planted thereon. All temporary markers shall be removed within six months from the date the funeral marker is placed thereon. (Ord. 00-123 § 1, 2000; Ord. 83-10 § 2 (part), 1983.)

**12.24.050 Lots--Purchase Prices.** The purchase price for all memorial plots shall be adopted by the Governing Body of the City by resolution. Such purchase price shall include perpetual improving, maintaining and caring for lots, graves, monuments, vaults and cemetery grounds. (Ord. 02-141 § 1, 2002; Ord. 00-123 § 2, 2000; Ord. 91-64 § 1, 1991; Ord. 83-10 § 2 (part), 1983.)

**12.24.060 Opening Graves--Charges.**

(a) Before any person shall have the right of interment in any lot in the cemetery not designated as Potter's Field, there shall be paid to the city for opening and filling each grave a fee. Such fee shall be adopted by the Governing Body of the City by resolution.

(b) No additional charge shall be made for oversized vaults or section boxes.

(c) No grave or burial shall be permitted within the Olathe City Cemetery until clearance has been first obtained from the city. (Ord. 02-141 § 2, 2002; Ord. 00-123 § 3, 2000; Ord. 96-08 § 1, 1996; Ord. 91-64 § 2, 1991; Ord. 89-32 § 1, 1989; Ord. 87-41 § 1, 1987; Ord. 83-36 § 1, 1983; Ord. 83-10 § 2 (part), 1983.)

**12.24.070 Trees and Shrubs.** It is unlawful for any person to plant in or remove from any lot or portion of a lot any tree or shrub without the prior consent of the city. The city reserves the right to trim or remove any trees, shrubs or plants growing on any lot. (Ord. 83-10 § 2 (part), 1983.)

**12.24.080 Dogs in Cemetery.** It is unlawful for any person to permit a dog to run loose in the cemetery. All persons entering the cemetery with a dog must keep the dog on a leash or confined within an automobile. (Ord. 83-10 § 2 (part), 1983.)

**12.24.090 Advertisements.** It is unlawful for any person to post or place any advertisement within the cemetery at any time. (Ord. 83-10 § 2 (part), 1983.)

**12.24.100 Vehicles.** It is unlawful for any person to drive any vehicle upon cemetery grounds except upon the drives provided for that purpose. (Ord. 83-10 § 2 (part), 1983.)

**12.24.110 Penalty.** Any person convicted of violating any of the provisions of this chapter shall be deemed guilty of a public offense and subject to the general penalty provisions of Section 1.16. 010. (Ord. 83-10 § 2 (part), 1983.)