

CHAPTER XII. PUBLIC PROPERTY

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ARTICLE 1. RECREATION COMMISSION

- 12-101. RECREATION COMMISSION ESTABLISHED. Pursuant to an election as provided by law and held on the 5th day of April, 1955, whereby the qualified electors of the city did by their vote authorize the city to levy an annual tax, not to exceed one mill for the purpose of providing, establishing, maintaining and conducting a supervised recreational system within the city, there is hereby established the recreation commission of the city as authorized by Chapter 12, Article 12 of the Kansas Statutes Annotated. (Code 1959, 11-101)
- 12-102. APPOINTMENT; TERMS; OFFICERS; POWERS; DISBURSEMENTS; TREASURER. The recreation commission shall consist of five members to be appointed as follows: The governing body shall appoint four members, the first appointee to serve four years, the second for three years, the third for two years, and the fourth for one year; and the fifth member who also serves for four years shall be appointed by the four appointee members of such commission. Thereafter, the members of the commission shall be selected in the same manner as the member he or she is succeeding and the term of office shall be four years. The commission shall elect a presiding officer and secretary. The commission shall be empowered to administer in all respects the business and affairs of the recreational system. The disbursements made by the commission shall be paid by voucher, and the claims paid by the commission shall be duly verified. The amount received from taxes as provided by law shall be set over to the commission and used by the commission for the purposes herein set out and shall be held by the city treasurer who shall be ex officio treasurer of the commission. (Code 1959, 11-102)
- 12-103. MEETINGS; RECORDS. The members of the recreation commission shall meet at least once a month during the months of April, May, June, July, August and September at such time and place as they may fix by resolution. Officers shall serve for one year or until their successors have been selected by the commission. Special meetings may be called at any time by the chairperson or in his or her absence by the vice chairperson. A majority of the commission shall constitute a quorum for the transaction of business. The commission shall cause a proper record to be kept of its proceedings and adopt suitable rules governing the conduct thereof. (Code 1959, 11-103)

12-104. POWERS AND DUTIES. The powers and duties of the commission shall be to create and establish a system of public recreation and playgrounds, acquire equipment and maintain land, buildings or other recreational facilities, formulate general recreation and playground plans and policies, employ a superintendent of recreation and such assistants as the commission may deem necessary and proper, expend funds obtained by taxation or derived from other sources for the operation, maintenance, conduct and general supervision of the system of public recreation and playgrounds, conduct the activities of the system on any property under its custody and management, or with proper consent, on any other public property and upon private property with the consent of the owner or owners, and to receive and accept gifts from any source whatsoever. (Code 1959, 11-104)

12-105. CERTIFICATION; TAX LEVY. The commission shall annually and not later than 20 days prior to the date for the publishing of the budget of the city, certify its budget to the city which shall levy a tax sufficient to raise the amount required by such budget, but in no event more than one mill: provided, that such levy shall not be deemed or considered a levy of the city in determining the aggregate levy of the city under any of the statutes of this state. (Code 1959, 11-105)

ARTICLE 2. CITY CEMETERY

- 12-201. NAME. The cemetery grounds conveyed to the city by the Osborne Cemetery Association shall hereafter be known as the Osborne City Cemetery, and when the word "cemetery" is hereafter used in this chapter it shall mean the Osborne City Cemetery. (Code 1959, 6-101)
- 12-202. COMMITTEE OF COUNCIL MEMBERS; ADVISORY COMMITTEE. The general care and supervision of the grounds of the cemetery shall be under the charge and control of a committee of two members of the city council who shall be appointed annually by the mayor. (Code 1959, 6-102; Code 2008)
- 12-203. BURIAL PERMIT FEES. It shall be unlawful for any person to inter or cause to interred in the Osborne city cemetery any human body without having first obtained a burial permit from the city clerk. The permit fee shall be the sum of \$150.00 for each adult burial; \$75.00 for each infant burial; and \$50.00 for cremated remains burial, which fee shall include the cost of opening and closing each grave. (Ord. 827, Sec. 1; Code 2008)
- 12-204. CITY CLERK: SALE OF BURIAL PLOTS. The city clerk shall be ex officio secretary of the Osborne city cemetery and shall have the sale of all burial plots therein and shall sell the burial plots for cash for the sum of \$75.00 per burial plot, a burial plot as the same is designated herein being four feet by 10 feet in size, the necessary space for the burial of one body. He or she shall collect all money arising from the sale of burial plots, at the time of the sale and pay the same to the city treasurer as received, taking a receipt therefor. Before issuing burial or disinterment permits, the city clerk shall require such information as is required by the laws of Kansas and the ordinances, rules and regulations of the city. (Code 1959, 6-105; Code 2008)
- 12-205. DISTRIBUTION OF PROCEEDS FROM SALE OF LOTS. The proceeds in the amount of \$75.00 derived from the sale of each burial plot shall be distributed as follows: \$50.00 of the sum shall go into and become a part of the general cemetery fund and the remaining \$25.00 of the sum shall be paid into a separate fund which shall be and constitute a perpetual care fund set up by the city treasurer. No part or portion of the principal of such fund shall ever be used, but such fund shall be invested in safe interest-bearing securities, as the mayor and council shall select, as provided by law, and the interest and income only shall be used and expended for the purpose of beautifying, repairing and keeping in order the Osborne city cemetery and the burial plots and lots of the cemetery and the governing body shall have the right and it shall be the duty of the governing body to expend the interest and income from such fund in accordance with the intent of this article, and shall use such interest and income from such fund only for the purpose of beautifying, repairing and keeping in order the burial plots, lots, drives and alleys of the cemetery. (Ord. 853, Sec. 1; Code 2008)
- 12-206. PERPETUAL CARE FUND. The perpetual care fund will be administered as provided by K.S.A. Supp. 17-1311 and K.S.A. Supp. 17-1312. (Code 1986)

- 12-207. **TRANSFER OF OWNERSHIP.** No person now owning or hereinafter owning a lot or part of a lot in the cemetery shall convey, transfer or devise the same to any other party or person without the written consent of the city first obtained, and any such conveyance or devices without such written consent shall be void and of no effect. Where two or more persons own a lot or a part of a lot jointly, the cemetery committee, upon application in writing, may allow a transfer from any of the joint owners to another joint owner, any heir receiving title to a lot by descent shall have the same rights to its use as the original owner of the lot. Any owner of a lot or part of a lot shall have the right to give permission by written order filed with the city clerk for the interment of the remains of others than his or her own immediate family in his or her lot or portion of a lot but not for money or other consideration or profit.
(Code 1959, 6-109)
- 12-208. **FENCES PROHIBITED.** No fence, railing, stone or other coping shall be placed above the level of the ground around any lot, part of lot or grave. Only granite cornerstones may be used which must be set level with the surface of the ground.
(Code 1959, 6-110)
- 12-209. **GRAVESTONES; PERMIT REQUIRED.** It shall be unlawful for any person, firm or corporation to place, construct or set any grave marker or monument, or the foundation therefor, in the cemetery without first having obtained a foundation permit therefor from the city clerk, and having such foundation approved by the caretaker or committee before any monument or marker or other structure is placed thereon. The charge for such permit, which shall be paid for before being issued, shall be \$5.00 for any stone. (Code 1959, 6-111; Code 1986)
- 12-210. **FOUNDATIONS FOR GRAVESTONES.** All foundations for monuments and markers must be four inches longer and four inches wider than the base of the monument or marker and shall be constructed of concrete in the mixture of one part of Portland cement to four parts of good, clean, sharp river sand, thoroughly mixed in a mortar box of sufficient size to insure proper mixing. In the lower portion of the foundation, use can be made of hard and durable rock (no soft limestone permitted), no single rock being larger than one cubic foot, laid in layers similar to the rubble masonry, with a two inch joint of mortar of the specified mix between all rocks and layers, so as to insure a perfect bond. But the top four inches of the foundation must be constructed out of sand and cement in the proportions as stated above, top to be finished smoothly with a trowel and form boards used. All foundations shall be built no higher than the level of the ground on the high side. All memorials shall be set in the center of such foundations. All markers, either single or double, when not exceeding a height of 18 inches, shall be set on a foundation not less than 18 inches in depth. All monuments or markers more than 18 inches in height and not more than 36 inches in height shall be set on a foundation not less than 24 inches in depth. The depth of the foundation for monuments exceeding three feet in height shall be increased at least six inches for each additional foot or fraction thereof in height. When foundations are constructed in close proximity to or partially over the edge of a grave, the foundation shall be extended on over the grave, bridging the grave, but the top of the extended portion shall be one foot below the level of the ground so as not to interfere with the future growing of grass. The person constructing any such foundation shall properly replace the sod over the bridged portion of such foundation. All foundation work shall

be done when the ground is free from frost and not during freezing weather. (Code 1959, 6-112)

- 12-211. MONUMENT SPECIFICATIONS. All monuments and markers must be set inside the lot line and true to the line, also level and plumb, and if not so placed, the cemetery committee shall have power to have such stones and work changed so as to conform to this regulation, and the cost and expense thereof shall be charged to and collected from the dealer erecting the work. Any person, firm or corporation who fails, neglects or refuses to comply with this or any other provisions of this article may be refused permission by the cemetery committee to place any more work in the cemetery. Any person, firm or corporation failing or refusing to correct any defective work done by any such person, firm or corporation in the cemetery, or who shall refuse to pay the expenses incurred by the cemetery committee in correcting defective work shall be debarred from doing any work or placing any stones in the cemetery until all of the regulations of this article shall have been complied with and all expenses paid. (Code 1959, 6-113)
- 12-212. UNLOADING OF MONUMENTS; PROTECTION OF LOTS. All materials and monuments must be unloaded from the nearest street or alley and the lots properly planked and protected from all injury. All dirt and refuse of the job shall be immediately removed from the lot and the cemetery by the parties erecting any structure or memorial. (Code 1959, 6-114)
- 12-213. USE OF CEMETERY IN WET WEATHER; SPEED LIMITS. No heavy teaming or trucking will be allowed in the cemetery during wet weather, except for funeral purposes, and no vehicle shall exceed a speed of 15 miles per hour, nor shall any vehicle be driven in the cemetery except on the streets and alleys. (Code 1959, 6-115)
- 12-214. DESIGN; INSCRIPTIONS. No monument, vault, tomb, effigy or any structure whatever, nor any inscription thereon, which shall be determined by the governing body to be improper, shall be placed in or upon any lot. (Code 1959, 6-118; Code 2008)
- 12-215. REMOVAL OF OLD STRUCTURES. If any vault, tomb, mausoleum, sarcophagus, columbarium or similar structure erected in and upon any lot shall become dilapidated or decayed, and the structure shall be determined by the cemetery committee to be offensive, dangerous or detrimental to the general appearance of the grounds, the caretaker shall have the right and it shall be his or her duty to cause such dilapidated structure to be removed and the bodies therein, if any, to be interred on the lot and lot graded and improved to correspond with the surrounding grounds, making a reasonable charge therefor. (Code 1959, 6-119)
- 12-216. WORK SUSPENDED DURING BURIAL SERVICES. Workmen must suspend labor if in the immediate vicinity of an interment until the conclusion of the service. (Code 1959, 6-120)
- 12-217. INTERMENT OF HUMAN BODIES ONLY; REGULATIONS. Only human bodies and the cremated remains of human bodies shall be interred in the cemetery. All bodies or cremated remains interred in the cemetery shall be enclosed in a metal,

stone or cement burial vault or container and the top of such burial vault or container must be at least three feet below the surface of the ground. No grave shall hereafter be covered with anything except marble or granite or dirt and sod. Funerals shall be so arranged as to give the caretaker sufficient time to close the grave before dark. (Code 1959, 6-122; Code 1986)

12-218. UNLAWFUL DEPOSITS; ADVERTISEMENTS. Paper boxes or withered flowers or other waste must not be deposited on the roadways, gutters, walks, or lots, but must be removed from the grounds or deposited in receptacles provided for the purpose. Signs, notice or advertisements of contractors, stone cutters, funeral directors or any other persons will not be permitted on the cemetery grounds. (Code 1959, 6-123)

12-219. UNLAWFUL ACTS. It shall be unlawful for any person willfully to make any unnecessary noise or disturbance, or cut down, deface or injure any tomb, monument, fence, railing, tree, shrub or other property of the cemetery. (Code 1959, 6-124)

12-220. POLICE POWER EXTENDED OVER CEMETERY. The police power of the city is hereby extended to and over the cemetery. (Code 1959, 6-125)

12-221. RULES AND REGULATIONS. In all matters, except such as are herein specifically provided for, the cemetery shall be governed and controlled by rules and regulations made by the cemetery committee and approved by the mayor and council, which rules and regulations may be at any time changed, amended or repealed by a majority vote of the council and approval thereof by the mayor. (Code 1959, 6-126)

ARTICLE 3. LIBRARY BOARD

- 12-301. **LIBRARY BOARD: MEMBERSHIP; APPOINTMENT.** The mayor shall appoint, with the approval of the governing body, a library board for the library of the city. The library board shall consist of seven members to be appointed in the manner and for terms provided by law and the mayor of the city who shall be ex officio a member of such board with the same powers as appointed members.
(K.S.A. 12-1222; Code 1959, 1-501)
- 12-302. **OFFICERS OF BOARD; MEETINGS.** The library board shall annually meet and organize by the election of a chairperson, a secretary and a treasurer and such other officers as they may deem necessary. The board shall fix the date and place of its regular meetings and special meetings may be called by the chairperson or upon written request of a majority of the members in the manner provided by law.
(K.S.A. 12-1224; Code 1959, 1-502)
- 12-303. **POWERS AND DUTIES OF BOARD.** The library board shall be responsible for the general operation and maintenance of the city library and shall make and adopt rules and regulations for the administration thereof.
(K.S.A. 12-1225; Code 1959, 1-503)

ARTICLE 4. CITY PARKS

- 12-401. CITY LAWS EXTENDED TO PARK. The laws of the city shall extend to and cover all city parks. (Code 2008)
- 12-402. POLICE JURISDICTION OVER PARKS. The city shall have police regulations governing any public parks belonging to the city and the chief of police and law enforcement officers of the city shall have full power to enforce city laws governing city parks and shall maintain order therein. (Code 2008)
- 12-403. PROHIBITION AGAINST ALCOHOLIC BEVERAGES AND CEREAL MALT BEVERAGES. Except as provided in Section 3-105, it shall be unlawful for any person or persons to use, consume or have on the premises of any park or other city property within the city any alcoholic liquor or cereal malt beverage. (Code 2008)
- 12-404. PRESERVATION OF NATURAL STATE. It shall be unlawful for any person, except duly authorized city employees or approved personnel, to take, injure, or disturb any live or dead tree, plant, shrub, or flower, or otherwise interfere with the natural state of city parks. (Code 2008)
- 12-405. TOBACCO USE; PENALTY. (a) It shall be unlawful for any person to use or attempt to use any tobacco products in or upon the City owned baseball complex, known as the Sanders Baseball Complex, located in the East Half of the Southeast Quarter of Section 13 Township 7 South, Range 13 West of the 6th P.M., Osborne County, Kansas and commonly known as 11 th and Main Street, Osborne, Kansas 67473.
(b) Any person found guilty of using or attempting to use tobacco products in violation of this ordinance is guilty of a misdemeanor punishable by a fine of not more than \$100.00 for each violation.
(c) The City shall post or cause to be posted in a conspicuous place signs clearly stating that the use or attempted use of tobacco products is prohibited by City Ordinance.
(Ord. 947; Code 2008)
- 12-406. GENERAL REGULATIONS. The city may post such rules and regulations, as are approved by the governing body, pertaining to the use of the city parks in a conspicuous place in each city park. Violations of these posted rules shall constitute a violation of this code. (Code 2008)

ARTICLE 5. FIREARM REGULATION

- 12-501. DEFINITION. As used in this article, the term “firearm” shall mean any handgun, pistol, or revolver. (Code 2008)
- 12-502. CARRY RESTRICTIONS. Pursuant to the Personal and Family Protection Act, Chapter 32 of the 2006 Session Laws of Kansas, as amended by Chapter 210 of the 2006 Session Laws of Kansas, and further amendments thereto, it shall be unlawful to carry a concealed firearm into:
- (1) Any place where an activity declared a common nuisance by K.S.A. 22-3901, and amendments thereto, is maintained;
 - (2) any police, sheriff or highway patrol station;
 - (3) any detention facility, prison or jail;
 - (4) any courthouse;
 - (5) any courtroom, except that nothing in this section would preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in the judge’s courtroom;
 - (6) any polling place on the day an election is held;
 - (7) any meeting of the governing body of a county, city or other political or taxing subdivision of the state, or any committee or subcommittee thereof, located in a properly marked building;
 - (8) any state office building;
 - (9) any athletic event not related to or involving firearms which is sponsored by a private or public elementary or secondary school or any private or public institution of post-secondary education;
 - (10) any professional athletic event not related to or involving firearms;
 - (11) any portion of a drinking establishment as defined by K.S.A. 41-2601, and amendments thereto, except that this provision shall not apply to a restaurant as defined by K.S.A. 41-2601, and amendments thereto;
 - (12) any elementary or secondary school building or structure used for student instruction or attendance, attendance center, administrative office, services center or other facility;
 - (13) any place where the carrying of firearms is prohibited by federal or state law;
 - (14) any child exchange and visitation center provided for in K.S.A. 75-720, and amendments thereto;
 - (15) any community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto; mental health clinic organized pursuant to K.S.A. 65-211 et seq., and amendments thereto; psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto;
 - (16) any properly marked city hall;
 - (17) any public library operated by the state or by a political subdivision of the state;
 - (18) any day care home or group day care home, as defined in Kansas administrative regulation 28-4-113, or any preschool or childcare center, as defined in Kansas administrative regulation 28-4-420; or
 - (19) any church or temple; or
 - (20) any place in violation of K.S.A. 21-4218, and amendments thereto.
- (Code 2008)
- 12-503. PENALTY. Violation of Section 12-202 is a Class A violation. (Code 2008)

12-504. LOCATION; RESTRICTIONS. Pursuant to the authority granted to property owners and to the owners or operators of businesses under the Personal and Family Protection Act, Chapter 32 of the 2006 Session Laws of Kansas, as amended by Chapter 210 of the 2006 Session Laws of Kansas, and subsequent amendments thereto, the governing body of the City of Osborne, Kansas, hereby prohibits the carrying of any concealed firearm by any person other than those identified in section 12-506 below while in or upon the premises of any of the following properties, which have been properly marked, and which are owned by the City of Osborne, Kansas, and/or on which the City is operating as a public employer:

(1) The _____ Recreation Center located at _____, _____, Kansas;

(2) The _____ Fire and EMS Stations located at _____, _____, _____, Kansas;

(3) The _____ Wastewater Treatment Plant located at _____, _____, Kansas;

(4) The _____ Water Plant located at _____, _____, Kansas;

(5) [may list any other specific buildings that the city owns and/or on which the city is a public employer.]

(Code 2008)

12-505. SAME; PENALTY. Violation of section 12-204 is a Class B violation.
(Code 2008)

12-506. EXCEPTIONS. (a) The prohibitions set for in Sections 12-202 and 12-204 above shall apply both to the interiors of the structures on all such properties and to the exterior areas; provided, however, that the prohibitions shall not apply to persons who are otherwise lawfully in possession of any such firearm while in a motor vehicle which is located in an area designated for public vehicular traffic or for public vehicular parking.

(b) The prohibitions set forth in Sections 12-202 and 12-204 above shall not apply to any person identified under the exclusions set forth in subsections (b) or (c) of K.S.A. 21-4201 regarding the criminal use of weapons, as said provisions now apply or may hereafter be amended.

(Code 2008)