

CHAPTER 12.

PUBLIC PROPERTY

Article 1. Public Use Regulations

Article 2. Westwood City Parks

Article 3. Community Forestry

ARTICLE 1. PUBLIC USE REGULATIONS

12-101. DEFINITIONS.

As used in this article the term "public grounds" shall include the city buildings, city parks, and any other public property open or available for general use by the public.

(Code 1983; Code 2008, § 12-101)

12-102. RULES AND REGULATIONS.

The city governing body is authorized to adopt suitable rules and regulations governing the use of all public grounds of the city and the facilities thereon, as defined in 12-101, which shall be open and available to the general public. Such rules and regulations shall fix the conditions under which said grounds and facilities may be used and the charges, where charges are authorized, to be paid to the city for such purposes.

(Code 1983; Code 2008, § 12-102)

12-103. EXCLUSIVE USE; WHEN.

The governing body may, in accordance with sound public policy, grant permission to any individual, society or organization for exclusive use of public grounds and facilities for temporary periods only. Such permission shall not be inconsistent with the use for which grounds or facilities were acquired and made available for public use by the city.

(Code 1983; Code 2008, § 12-103)

12-104. CONCESSIONS; CARNIVALS; FAIRS.

The governing body may, on application to the city clerk, issue a permit for the use of public grounds of the city by persons; organizations or companies for concessions, carnivals, fairs and other like public displays or entertainment.

(Code 1983; Code 2008, § 12-104)

12-105. HOLD CITY HARMLESS.

No person, organization or company shall be granted a license for concessions, carnivals, fairs and other like public displays or entertainment until they first shall have agreed, in writing, to waive any claim against and shall indemnify and hold the city, the city

governing body or its representatives harmless against the claims of any or all persons for injury to any person or damage to any property occasioned by or in connection with the use of the premises for which the license was issued. In addition, any licensee shall be required to provide proof of insurance that is satisfactory to the city.
(Code 1983; Code 2008, § 12-105)

12-106. DISPOSITION OF FUNDS.

All monies collected from any license or permit issued under this article shall be deposited in the city's park fund and used exclusively for park purposes.
(Code 1983; Code 2008, § 12-106)

12-107. MISCONDUCT.

It shall be unlawful for any person to:

- (a) Cut, break, deface, injure or carry away any tree, shrub or bush growing on public property;
- (b) Injure, deface or destroy property of any kind in any park or playground;
- (c) Drive or ride any horse, bicycle or motorized vehicle except upon designated roadways in public parks or playgrounds;
- (d) To interfere in any manner with the water supply, water pipes, gas supply or gas pipes upon public property.
(Code 1983; Code 2008, § 12-107)

12-108. CAMPING ON PUBLIC GROUNDS.

Overnight camping on public grounds within the city limits is prohibited without having first obtained, in advance, a permit from the governing body.
(Code 1993; Code 2008, § 12-108; Ord. 598)

12-109. SAME; APPLICATION FOR PERMIT.

- (a) Application for a permit must be made in advance of a regular council meeting so as to permit 30 full days to elapse between the time the permit is first considered and issued and the date of the proposed overnight camping.
- (b) Such permit may, at the sole discretion of the governing body, be issued to any natural person upon such terms and conditions as the governing body shall deem advisable.
- (c) The fee for granting of the application for a permit shall be \$5.00 for each overnight camping period unless such fee is waived by the governing body. ¹

¹ **Legal analysis: 12-109. SAME; APPLICATION FOR PERMIT.** Please review the camping permit fee (\$5.00) and advise as to any changes.

(Code 1993; Code 2008, § 12-109; Ord. 598)

12-110. SAME; PENALTY.

Any person who violates any of the provisions of sections 12-108 or 12-109 by camping or attempting to camp overnight on public grounds without having first obtained the permit provided in sections 12-108 and 12-109 shall upon conviction thereof be fined in any sum not exceeding \$500.00 or be imprisoned not to exceed 6 months, or be both so fined and imprisoned. Each day's violation shall constitute a separate offense.

(Code 1993, 12-111; Code 2008, § 12-110; Ord. 598)

12-111. 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.

(Code 2008, § 12-111)

12-112. PROHIBITION AGAINST ALCOHOLIC BEVERAGES AND CEREAL MALT BEVERAGES.

It shall be unlawful for any person or persons to use, consume or have on the premises of any park or other public grounds within the city any alcoholic liquor or cereal malt beverage, unless a permit is obtained from the city.

(Code 2008, § 12-112)

12-113. HUNTING.

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 public grounds. This provision shall not apply to anyone authorized by the city to undertake such activities, including, but not limited to, the city's animal control officers.

(Code 2008, § 12-113)

12-114. FIRES.

It shall be unlawful for any person to build or kindle any fire on any public grounds except in the 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.

(Code 2008, § 12-114)

12-115. 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 public grounds.
(Code 2008, § 12-115)

ARTICLE 2. WESTWOOD CITY PARKS

12-201. CITY LAWS EXTENDED TO PARKS.

The laws of the city shall extend to and cover all city parks.
(Code 2008, § 12-201)

12-202. 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, § 12-202)

12-203. DAMAGING PARK 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 park owned by the city.
(Code 2008, § 12-203)

12-204. DANGEROUS WEAPONS NOT ALLOWED.

(a) Except as provided in subsection (b), it shall be unlawful for any person to carry or have in his or her possession any firearm or dangerous weapon or to shoot or discharge the same within the limits of any city parks.

(b) The provisions of subsection (a) above shall not apply to duly authorized law enforcement officers in the performance of official duty, **or individual who is so properly licensed by the State of Kansas to carry a concealed handgun.**
(Code 2008, § 12-204)

12-205. 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, § 12-205)

12-206. WESTWOOD CITY PARK RULES. ²

The governing body hereby establishes the following rules of conduct for users of all city

² **Legal analysis: 12-206. WESTWOOD CITY PARK RULES.** As to bicycles in the park - Subsection (1) indicates they are allowed on designated roadways. Subsection (8) indicates they are entirely prohibited. Please advise; revise accordingly.

parks and public grounds:

(1) No bicycles are allowed inside the parks or public grounds except on designated roadways.

(2) No swimming or wading is permitted in the park fountain.

(3) Alcoholic liquor or cereal malt beverages are allowed inside the park only upon proper application and permit by the Governing Body.

(4) Tennis court time limits are:

Twosome - 45 minutes

Foursome - 60 minutes

(5) All trash, bottles or debris must be placed in trash containers.

(6) No excessive noise will be allowed, especially in the evening hours that may disturb neighboring residents.

(7) No climbing of trees is allowed.

(8) No bicycles, skate boards, roller blades or roller skates are allowed.

(9) 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. (Code 1993, 12-201; Code 2008, § 12-206; Ord. 557; Ord. 702; Ord. 766)

ARTICLE 3. COMMUNITY FORESTRY

12-301. DEFINITIONS.

(a) Street Trees: are herein defined as trees, shrubs, bushes, and all other woody vegetation, on the public right-of-way, of all streets, alleys, avenues, boulevards, and other public rights-of-way within the city.

(b) Park Trees: are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

(c) Community forest: is herein defined as all street and park trees as a total resource.

(d) Public Trees: are defined as trees on public grounds.
(Code 1993; Code 2008, § 12-301)

12-302. CREATION.

There is hereby created and established a community forestry program under the direction of the parks and recreation committee.
(Code 1993; Code 2008, § 12-302)

12-303. DUTIES AND RESPONSIBILITIES.

It shall be the responsibility of the parks and recreation committee to develop and administer an annual urban forest program to include the care, replacement, maintenance, and removal or disposition of trees and shrubs in parks, along streets and in other public areas.

(Code 1993; Code 2008, § 12-303)

12-304. TREE SPECIES TO BE PLANTED.

The city shall maintain a list of recommended trees for planting in public areas. This list shall be available to residents of the city upon request to aid in the selection of trees for private properties. The list of recommended trees shall be updated periodically to reflect new developments or species that will affect the population of the Community Forest.

(Code 1993; Code 2008, § 12-304)

12-305. DISTANCES AND CLEARANCES FOR PLANTING.

(a) No additional trees shall be planted in any public right-of-way. Trees shall not be planted closer than three feet from a sidewalk or seven feet from a street that has no sidewalk.

(b) No tree shall be planted closer than 35 feet from any street corner, measured from the point of the nearest intersection of curbs or curbing.

(c) No tree shall be planted closer than 10 feet from any fireplug.

(d) Special permission must be obtained from the parks and recreation committee or their designee when planting trees within 20 feet of any point on a line on the ground immediately below any overhead utility wire, or within five lateral feet of any ground waterline, sewer line, transmission line, or other utility.

(Code 2008, § 12-305)

12-306. PUBLIC TREE CARE.

(a) The city shall have the right to plant, prune, spray, maintain, and remove trees, plants, and shrubs within right-of-way or bounds of all streets, alleys, lanes, squares, and public grounds, as may be necessary to insure the public safety or to preserve or enhance the beauty of such public grounds.

(b) The parks and recreation committee or their designee may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, waterlines, or other public improvements, or is seriously affected with any injurious insect or disease.

(c) The abutting property owners shall have the right to perform normal tree care on all street trees in compliance with American National Standards Institute (ANSI) and other standards applicable thereto.

(Code 1993, 12-307; Code 2008, § 12-306)

12-307. CLEARANCE OVER STREETS AND WALKWAYS.

Clearance over streets and walkways shall be the responsibility of the abutting property owner. A clearance of eight feet must be maintained over walkways and a clearance of 14 feet must be maintained over streets. Property owners are responsible for trees on their own property as well as trees on the public right-of-way that abuts their property. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign.

(Code 2008, § 12-307)

12-308. REMOVAL OF STUMPS.

All stumps of street and public trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(Code 1993 12-313; Code 2008, § 12-308)

12-309. INJURING TREES AND SHRUBS. ³

No person shall willfully break, cut, take away, destroy, injure, mutilate, or attempt to willfully break, cut, take away, destroy, injure or mutilate any tree, shrub, vine, flower or landscaping standing, growing, or being on any public ground, street, sidewalk, promenade or park in the city, unless that person is a city employee or tree care professional performing any of the tasks in section 12-306 on behalf of the city.

(Code 2008, § 12-309)

³ **Legal analysis: 12-309. INJURING TREES AND SHRUBS.** Added language to allow for city-directed tree care and maintenance.