

CHAPTER XII. PUBLIC PROPERTY

Article 1. City Parks

Article 2. Lake Wabaunsee Park

ARTICLE 1. CITY PARKS

- 12-101. PROVISIONS APPLICABLE TO PARKS; CONFLICTING CODE PROVISIONS. The provisions of this chapter shall apply to all parks owned by the city, whether or not such parks are within the incorporated limits of the City. Such parks include, but are not limited to, the territory within the boundaries of Lake Wabaunsee Park. In the event a provisions of this chapter conflicts with another provision of the code or city ordinance, the provision of this chapter shall prevail. (Ord. 524; Code 2016)
- 12-102. POLICE JURISDICTION. The city's chief of police and all law enforcement officers of the city shall have full power to enforce within the boundaries of all city parks, all applicable laws, ordinances and code provisions. Such laws, ordinances and code provisions shall include, but not be limited to, the provisions of this chapter. (Ord. 524; Code 2016)
- 12-103. 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 2000)
- 12-104. VEHICLE REGULATIONS. (a) Motor vehicles, including any vehicle licensed to operate on public streets, roads and highways and motorbikes, go-carts, snowmobiles and other motorized off-the-road vehicles shall be operated in a safe and prudent manner at all times in park areas.
(b) Except as provided in subsection (d), it shall be unlawful for any person to park any motor vehicle in any area not designated for such purpose.
(c) Except as provided in subsection (d), it shall be unlawful for any person to operate any motor vehicle within any city park except upon roads, drives and parking areas established by the city.
(d) Subsections (b) and (c) above shall not apply to authorized city employees while engaged in the maintenance and care of the park.
(e) It shall be unlawful to operate any such vehicle in any park area at a speed in excess of 20 m.p.h.
(Code 2016)
- 12-105. 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 city park. (Code 2000)

- 12-106. **FIRES.** It shall be unlawful for any person to build or kindle any fire in any city park 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 2000)
- 12-107. **CAMPING PROHIBITED.** Overnight camping is hereby prohibited in city parks except where posted. (Code 2000)
- 12-108. **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 2000)
- 12-109. **LIMITATIONS ON THE CONSUMPTION OF 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 city park or any city premises within the limits of the city, any alcoholic liquor or cereal malt beverage, except as set forth in this Section 12-109. It shall be lawful for persons to use, consume or have on the premises of any city park or any city premises within the city, alcoholic liquor or cereal malt beverages, if such use, consumption or possession is in conformity with a valid, written agreement with the City. Such agreements may be approved by the governing body, in the governing body's sole discretion and, if approved, shall provide; 1) the time period during which such consumption is allowed; 2) the location for which such consumption is allowed; 3) that law enforcement supervision will be required during the time period and at the location named in the written agreement; and 4) the amount of a non-refundable fee that will be required in advance, as consideration for such agreement. (Ord. 516; Code 2016)
- 12-110. **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.
(Code 2000)
- 12-111. **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 2000)

ARTICLE 2. LAKE WABAUNSEE PARK

- 12-201. DEFINITIONS. The following terms as used in this article and in each regulation adopted in connection herewith shall have the meaning provided for each:
- (a) Governing Body. The governing body of the City of Eskridge, Kansas.
 - (b) Offending Structure. Any structure that is:
 - (1) Structure that was existing and for which structure a valid use permit has not been issued and/or has been revoked or expired or which is not built in accordance with such permit.
 - (2) A structure that is constructed or moved in and for which the applicable permit has not been issued or has been revoked or expired.
 - (3) A structure for which payment of fees as required are more than 30 days past due.
 - (4) A structure that is in disrepair or which is dangerous to the user or the public, or which has a deprecating effect on the lake and surrounding property.
 - (c) Park Caretaker. Such person as designated by the governing body to provide caretaker services at Lake Wabaunsee Park.
 - (d) Public Officer. Such person as designated by the governing body to enforce this article, including such public officers' assistants.
 - (e) Structure. Each boat house, boat dock, fishing dock, swimming platform, free standing boat lift, boat slide, storage building, pump house, retaining wall, walkway water line extending into the lake, or other man-made structure, whether of permanent construction or portable, located on land owned by the city at Lake Wabaunsee Park. For purposes of the preceding sentence, boat docks, fishing docks and swimming platforms shall include all structures used for such purposes, regardless of whether such structures are also used at other times as boats or for other purposes. (Ord. 528; Code 2016)
- 12-202. CONSTRUCTION OF STRUCTURES. No structure shall be built, installed or constructed on Lake Wabaunsee Park property owned by the city without first complying with the following procedure:
- (a) An application for structure permit and a written plan therefor setting out the proposed location, size, type of material and architectural design thereof must be filed with the city clerk, accompanied with a fee of \$50. The plan and proposed site shall be reviewed by the public officer who shall make written findings and recommendations to the governing body.
 - (b) The governing body shall review the public officer's report. The governing body may approve the application, deny the application, or grant the application subject to conditions. Upon approval of such an application, a construction permit shall issue authorizing the construction or installation of the structure in accordance with the permit. The construction permit shall be conspicuously posted at the site of the installation or construction.
 - (c) The construction permit shall be valid for six months from the date of issuance, at which time such permit shall expire. Provided, that such permit may be renewed for not to exceed two additional terms upon timely request to the governing body. If a permit to construct expires prior to final inspection and approval as provided below, a new application to construct must be filed and approved.
 - (d) Upon completion of the construction or installation of the structure, and before expiration of the construction permit, the permit holder shall so notify the city

and request a final inspection of the structure as built. The public officer shall then inspect the site to determine that the structure has been built in accordance with the construction permit and shall provide the governing body with his or her written findings. If the public officer determines that the structure has been constructed or installed in accordance with the construction permit, the public officer shall so notify the city clerk. If the governing body determines that the structure has not been constructed or installed in accordance with the construction permit, the governing body may amend the construction permit and allow the structure to be reconstructed in accordance with the construction permit upon such terms as determined by the governing body; or revoke the construction permit and require the removal of the then-existing structure or structures.

(e) The governing body may determine at any time, on a temporary or permanent basis, to cease issuance of all or some categories of additional structure permits, as the governing body deems appropriate.

(f) No permit shall issue to any person not having an ownership or leasehold interest in one or more lots located in Wabaunsee County State Park. Such land shall have located upon it a building, suitable for habitation, attached to a permanent foundation connected to all utilities (habitable structure) in accordance with applicable building codes. There shall be only one dock allowed for each property with a habitable structure. One person may own more than one dock only if that person is the owner of an additional or multiple properties with a habitable structure on each property, and in such an instance said individual may own only one dock per habitable structure.

(g) Any rights granted hereunder shall not be transferrable except upon approval of the governing body.

(h) The provisions of section 12-202(f) above that restrict the number of docks shall not apply to any docks constructed, or docks where permits have been approved, before October 2008. Where a person owns more than one dock under such circumstances, the docks may be repaired or maintained, but cannot be modified, altered, improved, replaced, increased in size or expanded in any way by the owner. Any attempt to do so by the owner shall result in the application of section 12-202(f) and the public officer may treat the dock so modified, improved or expanded as an offending structure under this article and act in accordance with section 12-208. This provision is only to be applied to allow an individual to maintain more than one existing dock per habitable structure if the same was allowed under a prior ordinance, and this provision does not serve as a general exception for an individual landowner of the limits provided in section 12-202(f). An individual owner of multiple docks under this provision, in that the docks pre-existed Ordinance No. 528 and are based upon one habitable structure, may sell their property and their interest in the permits held by the seller, however, the transfer must be approved by the city and the city reserves the right to deny a transfer of more than two docks per habitable structure, and the right to condition the approval of transfer of dock permits upon removal of one or more of the docks. In any case where a transfer occurs in these circumstances, the purchaser shall be bound by the provisions of this subsection as it regards the modification, alteration, improvement, replacement, or expansion of the existing dock. Further, a current permit holder may not use a transfer of property in order to evade the limitations of Ordinance No. 528.

(Ord. 528; Code 2016)

- 12-203. **REPAIRS, ALTERATIONS, REPLACEMENTS.** No repairs, replacements, alterations, additions to, reconstruction of, or improvements, to any structure which would cause a change in the size or architectural design of the structure may be commenced until an application therefor, in the same manner as for new construction, has been filed with the city clerk, as provided in section 12-202(a) above, and a construction permit therefor has been issued by the governing body. No similar repairs, replacements, alterations, additions to, reconstruction of, or improvements, to any dock may be commenced in violation of section 12-202(h). (Ord. 528; Code 2016)
- 12-204. **NATURE OF STRUCTURES, TRESPASSING PROHIBITED, EXCEPTION.** Each structure constructed, installed or maintained pursuant to this article shall be deemed to be the personal property of the permittee thereof. It shall be unlawful for any person to trespass on any structure, without having consent of the permittee, except for designated city personnel for the purpose of inspection and enforcement of this article. (Ord. 528; Code 2016)
- 12-205. **DESIGN CRITERIA.** No structure shall be constructed or installed except in accordance with the following criteria:
 (a) Except as provided below, no structure shall be built to exceed a width of 20 feet on shore line and a length of 24 feet, nor a height of 12 feet above dock level. If any structure is not made to float upon the water or be otherwise moveable to be maintained at water level, the permit application shall provide for the height of any poles, pilings or supports of any kind to establish the height of the structure from the lake bottom. The City reserves the right to deny any permit wherein the height of such a structure would be excessive, would block views or access to the lake, would be dissimilar in height from other nearby structures or would otherwise be considered to be aesthetically displeasing, in the discretion of the City. All storage structures shall be temporary in nature and not secured permanently to the ground. There shall be a minimum of 10 feet in distance between any boat house, boat dock, fishing dock, swimming platform, free standing boat lift, attached boat lift or boat slide. No buildings as herein mentioned shall be used as living quarters, temporary or otherwise.
 (b) With prior approval as provided in Section 12-202, an applicant may construct a multiple slip boat dock that has a width of greater than 20 feet on shore line and/or a length of greater than 24 feet. The slips in such a dock may only be used by persons who are parties to a land lease agreement with the city where a barracks unit is located. Such slips may not be sublet. (Ord. 528; Code 2016)
- 12-206. **NUMBERING OF STRUCTURES; DISPLAY.** All structures located on property owned by the city shall be assigned a number by the city, and the permittee shall attach and display such number so as to be visible from the lake front. (Ord. 528; Code 2016)
- 12-207. **FEES.** For the privilege of maintaining a structure on city property, a license fee for each such structure shall be payable as follows:
 (a) Except for structures covered by subsection (c) below, an annual fee of \$125 for each bath house, boat dock, fishing dock, boat slide, and all other

structures, secured or unsecured, existing as of the date of December 2011, which exceed a width of 20 feet on the shore line, or a length of 24 feet.

(b) An initial license fee of \$250 for the installation of a water line, buried or not buried, across the city property at shore line for installing water services to the property of licensee.

(c) An annual fee of \$100 per year, per boat slip shall be paid for multiple slip docks authorized under Section 12-205(b).

(d) For all other structures, except for walkways and retaining walls that are approved by the governing body, an annual license fee of \$100.

(e) All annual fees herein shall be due and payable on January 1st of each year hereafter at the office of the city clerk. For all fees not paid by January 31st of the year in which they are due, there shall be assessed an additional fee of \$40 per structure.

(f) An annual fee of \$75 per year for any party allowed by the city to reserve a location for the placement of a dock or structure. Any failure to pay the annual fee in a timely manner shall result in the loss of the reserve dock permit.

(Ord. 528, Ord. 550; Code 2016)

12-208. OFFENDING STRUCTURE; ENFORCEMENT. Whenever it appears to the public officer that any structure is an offending structure, he or she shall issue and cause to be served upon the permittee a complaint stating the charges in that respect. Such complaint shall contain a notice that a hearing will be held before the public officer or his or her designated agent at a place therein fixed not less than 10 days nor more than 30 days after the serving of the complaint, and that the permittee shall be given the right to appear and give testimony at the place and time fixed in the complaint.

If after such notice and hearing the public officer determines that the structure upon consideration is an offending structure, he or she shall state in writing his or her findings of facts in support of such determination and shall issue and cause to be served upon the owner thereof an order to repair or remove the offending structure within the time provided in the order.

If the owner fails to comply with such order, the public officer may cause the offending structure to be removed, with the cost thereof payable by the permittee to the city within 10 days of the date of billing for the same.

The public officer may further make as part of his or her order, a penalty, not to exceed \$25 per day for each day that an offending structure is maintained after the date specified by the public officer.

All orders of the public officer shall be subject to appeal and review of the governing body. An appeal of any order of the public officer must be made in writing and delivered to the city clerk not later than 10 days following the date of the subject order. Failure to file a timely appeal shall constitute a waiver of the right of appeal. The governing body shall set a hearing on the appeal and shall give notice thereof to the permittee in the same manner as provided for the original complaint. Upon hearing of a timely filed appeal, the governing body may affirm, reverse or modify all or any part of the public officer's order.

Service of any notice upon any permittee shall be deemed made upon placing such notice in the United States mail, first class postage prepaid, addressed to the permittee's last known address as shown in the records of the city.

(Ord. 528; Code 2016)

- 12-209. CAMPING. No tents or camping trailers shall be allowed in Lake Wabaunsee Park except upon written permission from the park caretaker.
(Ord. 528; Code 2016)
- 12-210. RESERVE DOCK PERMITS. Upon transfer or sale of any property whereupon the owner has paid a dock permit fee to reserve a location for a dock, said reserve dock permit shall be terminated and any and all rights therein and payments made thereon shall be forfeited as of the date of sale or transfer.
(Ord. 528; Code 2016)
- 12-211. ACCESS TO PROPERTY. No roads or ways of access shall be located in, upon or across property owned by the city located within Lake Wabaunsee Park, without the written approval of the governing body. (Ord. 528; Code 2016)
- 12-212. SWIMMING, BOATING AND OTHER ACTIVITIES. Persons swimming, boating and/or engaging in other activities at Lake Wabaunsee Park do so at their own risk. (Ord. 528; Code 2016)
- 12-213. OTHER FEES AND PERMITS. The governing body may require permits for fishing and boating and establish fees therefor and shall regulate and set fees for fishing, boats and other floating devices, water skiing and camping.
(Ord. 528; Code 2016)
- 12-214. VIOLATIONS. Any person found guilty of violating any of the provisions of Sections 12-209:210 or any of the regulations found under Section 12-212 shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$100. (Ord. 528; Code 2016)
- 12-215. PENALTY. The public officer may order a penalty of not to exceed \$1,000 upon a finding that any structure was moved in or built on city property prior to issuance of the applicable permit(s), whether or not the structure was eligible for issuance of such permit had it been timely obtained. (Ord.528; Code 2016)
- 12-216. LANDSCAPING, CHANGES OR IMPROVMENTS TO CITY PROPERTY.
 (a) Any landscaping, improvements or other alterations by any private party of City property surrounding Lake Wabaunsee shall be designed or placed in such a manner as to allow and insure public access to City property, and said landscaping shall be placed in such a way that it is clear to the public that access is available. No landscaping or other changes to the property shall result in a barrier to access or in any way impede the travel of the public over city property, and no such landscaping or improvement shall obtain such a height that blocks visual access to the Lake. All trees, shrubs and other plants shall be maintained so as to ensure that natural growth does not block access in any way.
 (b) The public is prohibited from dumping sand, rock, earth, dirt or any other material upon the shoreline of Lake Wabaunsee and/or City property without the prior approval of the City Council, and none of these materials can be placed so as to constitute a barrier to public travel on City property. This would include, but not be limited to, any actions performed to control or prevent erosion of City property.
 (c) Persons may seek to construct walkways or similar structures upon City property, either in connection with a permit sought under Section 12-202 for docks or other structures, or as a separate structure permit request. In any case, these

structures shall be in conformance with the design criteria of the City and shall not exceed four (4) feet in width. If the walkway or structure has handrails installed the walkway, a portion of the walkway must be left open and free from obstructing travel across city property. The City maintains its discretion to approve any walkway design that meets the requirements of access, while maintaining the safety and utility of the walkway for the permit holder.

(d) Any structure, landscaping, improvement or material placed upon City property in violation of this section shall be deemed to be an "offending structure" and action taken pursuant to Section 12-208. (Ord. 555; Code 2016)

12-217. INCORPORATING STANDARD STATE BOATING LAWS. There is hereby incorporated by reference for the purpose of regulating marine traffic within the park limit of Lake Wabaunsee, that the "State Boating Laws" administered by the Kansas State Department of Wildlife and Parks per K.S.A. § 32-1110 through K.S.A. § 32-1179, be adopted by Ordinance No. 468 as the standard boating laws to be used in regulating marine traffic within Lake Wabaunsee Park. (Ord. 468; Code 2016)

12-218. SAME; PENALTY FOR SCHEDULED FINES. The fine for violation of any marine traffic ordinance infraction for which the municipal judge established a fine in a fine schedule shall not be less than \$10 or more than \$500. A person tried and convicted for a violation of a marine traffic infraction or other marine traffic offense for which a fine has been established and a scheduled of fine shall pay a fine fixed by court not to exceed \$500. (Ord. 468; Code 2016)

12-219. INOPERABLE OR NUISANCE WATERCRAFT. It shall be considered a violation for any person to possess, operate, hold, own or otherwise maintain a boat or other watercraft, of whatever nature, in Lake Wabaunsee Park in an inoperable condition or when the subject watercraft is damaged, partially sunken, abandoned, dilapidated such that it is a nuisance to the public enjoyment of the park.

(a) Procedure: Upon written complaint from two individuals, or upon investigation by the Public Officer, if it is determined that a watercraft is in violation, the Public Officer shall prepare a report detailing the conditions that violate this section. If the owner of the watercraft is known, or the person holding or possessing the watercraft is known, a notice containing the report shall be sent to that person, by first class mail. Said notice shall provide that if the violation is not corrected within 30 days of mailing, or a hearing requested before the City Council, the Public Officer will be allowed to remove the watercraft from Lake Wabaunsee Park. However, if the same is not removed, the person deemed in violation shall still be required to abate the nuisance by repair or removal of the watercraft. If removed, the Public Officer will store the same for at least 30 days and give an additional notice that should the watercraft not be picked up by the owner or any other responsible party, and the costs of abatement paid, the watercraft will be disposed of at the City's discretion. If the owner is not known or cannot be determined by reasonable diligence, the Public Officer may give notice of the violation by publication to the public at large, by identification of the type of boat and its general location, and giving any party 30 days after publication to claim the watercraft. The report of the Public Officer need not be published, and only is required to be turned over to any party making claim to the watercraft. If the owner is identified in this process, the Public Officer will provide the report on request, but the owner shall have only 30 days to remove the watercraft or abate the nuisance from the date of

publication. Failure to do so shall result in removal of the watercraft and notice in line with this section

(b) Emergency Removal: If any boat or watercraft under this section presents an immediate danger to the safety of the public or may cause damage to other structures or property at Lake Wabaunsee, the Public Officer may remove the same from the Lake without prior notice as outlined in subsection (a). The Public Officer will make a reasonable attempt to contact the owner of the boat, if the same is known, prior to removal. The danger to the public or to structures shall be determined by the Public Officer in his or her own discretion. Upon removal, the Public Officer will issue a notice in the manner provided in subsection (a) giving the owner 30 days to claim the watercraft, after payment for the cost of removal and any other penalties for non-compliance with this section, as provided in subsection (c). During this time the owner may request a hearing with the City Council as provided for in subsection (c). If the watercraft is not claimed within that time period, the City may dispose of it.

(c) Hearing: If a hearing is requested, the City Council will hear the same at a place and time as it may direct. Failure to appear at the hearing will result in the invocation of penalties as outlined in subsection (d) If it is determined that the watercraft does not violate this section, the watercraft will be returned to the owner or party entitled to possession. If the City Council determines that a violation exists it may impose any penalty, as outlined in this section, including, but not limited to, the destruction or disposal of the watercraft.

(d) Penalties: If the person in violation of this section does not remove or replace the watercraft in line with the Notices under subsection (a) the City will be allowed to abate the nuisance by removal and/or disposal of the offending watercraft. The following is a list of non-exclusive penalties that can result from a violation of this section:

- (1) Removal of the watercraft and disposal/destruction of the same;
 - (2) Revocation of any existing boat permits or dock permits held by the owner;
 - (3) The costs resulting from the disposal, removal and/or destruction of the watercraft in an amount not less than \$150, and an administrative fee per day of storage of \$25; and/or
 - (4) Prosecution for violation of this section by filing of a complaint in the municipal court of the City and upon conviction of a violation of this section, such person shall be fined an amount not to exceed \$500 or be imprisoned not to exceed 30 days, or be both fined and imprisoned. Each day during which a violation continues after notice shall constitute an additional or separate offense.
- (Ord. 568; Code 2016)