

## CHAPTER XII. PUBLIC PROPERTY

- Article 1. City Parks
- Article 2. Property Maintenance
- Article 3. City Cemetery

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### ARTICLE 1. CITY PARKS

- 12-101. CITY LAWS EXTENDED TO PARK. The laws of the city shall extend to and cover all city parks. (Code 2011)
- 12-102. 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 2011)
- 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 2011)
- 12-104. 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.  
(Code 2011)
- 12-105. 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 2011)
- 12-106. 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 2011)

- 12-107.       **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 2011)
- 12-108.       **CAMPING PROHIBITED.** Overnight camping is hereby prohibited in city parks except where posted. (Code 2011)
- 12-109.       **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 2011)
- 12-110.       **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 city property within the city any alcoholic liquor or cereal malt beverage. (Code 2011)
- 12-111.       **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 2011)
- 12-112.       **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 2011)

## ARTICLE 2. PROPERTY MAINTENANCE

- 12-201. MAINTENANCE NEAR CITY PROPERTY. It shall be the duty of every owner or occupant of a lot or tract of ground abutting upon any sidewalk, street, street right of way, alley, lane or other public way of the city, or adjacent to the street parking thereof to plant, cultivate, maintain, or remove trees, shrubbery, and hedges in such a manner that the same shall not interfere with persons or travel upon or along such street, sidewalk, street right of way, alley, lane, sidewalk, or other public way, or in any way cause an unsafe condition or which by reason of its nature is injurious to sewers, electrical power lines, gas lines, water lines, or public improvements. It shall be the duty of all such persons to cut or trim any such trees so that the branches or limbs thereof shall not extend out over the sidewalks lower than nine (9) feet from the surface thereof, or over that portion of any street, street right of way, avenue, or other public way used for vehicles lower than fourteen (14) feet from the surface thereof. It shall be the further duty of all such persons to trim or cut all shrubbery or hedges so that the branches or limbs thereof shall not extend out over the sidewalk, street, street right of way, or other public way and to maintain the height of such shrubbery and hedges not in excess of three (3) feet, measured from the bottom of the gutter or drain of the adjacent street or other public way. (Ord. 280; Code 2011)
- 12-202. TREE AND SHRUBBERY SET-BACK DISTANCE. No trees, shrubbery, or hedges shall be planted on private property within two (2) feet of the property line adjacent to a street, sidewalk, or other public way. (Ord. 280; Code 2011)
- 12-203. PLANTING IN STREET PARKINGS. All trees, shrubbery, and hedges cultivated in the street parkings shall be planted, as near as may be, equal distance between the curb line of the street and outside of the sidewalk line where a sidewalk is located or where space is reserved for a sidewalk. In the case of a curb sidewalk, such planting shall be equal distance between the property line and the curb sidewalk line. (Ord. 280; Code 2011)
- 12-204. AUTHORITY OF PUBLIC UTILITY TO CUT OR TRIM. It shall be lawful for any privately owned utility operating under a franchise granted by the Governing Body and owning or using transmission lines in the City to cut or trim trees, shrubbery, hedges, or other growths in the parking or public ways of the City that interfere with such lines. (Ord. 280; Code 2011)
- 12-205. REMOVAL WHEN OBSTRUCTING VIEW OR TRAFFIC. When any tree, shrubbery, hedge, or other growth shall, by reason of the lay of the land or the location of any such tree, shrubbery, hedge, or other growth, obstruct the view of a driver to observe traffic entering the street from any intersecting street, the same shall be deemed and declared a hazard by the Governing Body and, after notice has been given to the owner or occupant of the land, pursuant to this section, the street commissioner shall be authorized to remove the tree, shrubbery, hedge, or other growth. (Ord. 280; Code 2011)

- 12-206 TREATMENT OR REMOVAL WHEN DISEASED OR INFESTED. Whenever any competent city authority, or competent state or federal authority, when requested by the Governing Body, shall file with the Governing Body a statement in writing, based upon a laboratory test or other supporting evidence, that trees, trees material, shrubs, hedge, or other growth located upon private property within the city are infected or infested with or harbor any tree disease, plant disease, insect, pest, or larvae, the uncontrolled presence of which may constitute a hazard to or result in the damage or destruction of other trees, shrubs, or hedges in the community, describing the same and where located, the Governing Body shall direct the city clerk to forthwith issue notice, pursuant to this section, requiring the owner or agent of the owner or occupant of the premises to treat or remove any such designated tree, tree material, shrub, or hedge.  
(Ord. 280; Code 2011)
- 12-207 INJURING TREES. Subject to the other provisions of Chapter 12, Article 2 of this code, it shall be unlawful for any person to cut, girdle, destroy, or in any manner injure any tree standing or growing wholly or partly in or on any street or alley, without the consent of the abutting land owner and the Governing Body of Pawnee Rock.  
(Ord. 280; Code 2011)
- 12-208 RIGHTS OF ENTRY. It shall be a violation of Chapter 12, Article 2 of this code to deny the city official the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a violation exists.  
(Ord. 280; Code 2011)
- 12-209 NOTICE. Any person, corporation, partnership, or association found by the city official to be in violation of any section of Chapter 12, Article 2 shall be served a notice of such violation. The notice shall be served either personally by the city official, other law enforcement officer, or by registered mail.  
(Ord. 280; Code 2011)
- 12-210 CONTENTS OF NOTICE. The notice shall state the conditions that are in violation of this ordinance. The notice shall also inform the person, corporation, partnership, or association that:
- (a) He, she, or they shall have ten (10) days from the date of serving the notice to remove the condition in violation; or
  - (b) He, she, or they shall have ten (10) days from the date of serving the notice to request a hearing before the Governing Body of the matter as provided by section 12-213; or
  - (c) Failure to remove the condition or to request a hearing within the time allowed may result in prosecution as provided by section 12-211 and/or removal of the condition by the City of Pawnee Rock as provided by section 12-212.
- (Ord. 280; Code 2011)
- 12-211 FAILURE TO COMPLY. Should the person, corporation, partnership, or association fail to comply with the notice to rectify the violation or request a hearing, the city official may file a complaint in the Municipal Court of the City against such person, corporation, partnership, or association and upon conviction of any violation, be

fined in an amount not to exceed \$100.00. Each month during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.  
(Ord. 280; Code 2011)

12-212 REMOVAL. In addition to, or as an alternative to prosecution as provided in section 12-211, the city official may seek to remedy violations of this section in the following manner. If a person to whom a notice has been sent has neither alleviated the conditions causing the alleged violation nor requested a hearing before the Governing Body within the time limit, the city official may present a resolution to the Governing Body for adoption authorizing the city official or other agents of the City to remove the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the City shall be charged against the lot or parcel of ground on which the offending violation was located. If these costs are not paid within 60 days, the costs can be placed on the tax rolls. A copy of the resolution shall be served upon the person in violation in one of the following ways:

- (a) Personal service upon the person in violation;
- (b) Service by registered mail; or
- (c) In the event the whereabouts of such persons are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the city office and filed with the city clerk and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.

(Ord. 280; Code 2011)

12-213 HEARING. If a hearing is requested within the 10-day period as provided in section 12-210, such request shall be made in writing to the Governing Body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the city official before the Governing Body. The hearing shall be held by the Governing Body as soon as possible after the filing of the request therefore, and the person shall be advised by the City of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the City may introduce such witnesses and evidence as is deemed necessary and proper by the Governing Body. The hearing need not be concluded according to the formal rules of evidence. Upon conclusion of the hearing, the Governing Body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the matter provided in section 12-211.

(Ord. 280; Code 2011)

12-214 SPECIAL ASSESSMENT FOR COST OF WORK DONE UNDER ARTICLE. Whenever any provision of Chapter 12, Article 2 has been violated, the City, after proper notice had been given and in the event the City performs or causes the work requested to be done, shall assess the cost of such work against the property or abutting property as a special assessment. The city clerk, at the time of certifying other city taxes to the county clerk, shall certify such unpaid costs and request the county clerk to extend the same on the tax roll of the county against the property or abutting property as a special assessment. Notice provision shall be the same prescribed by section 12-209. (Ord. 280; Code 2011)

### **ARTICLE 3. CITY CEMETERY**

12-301. CITY CEMETARY MANAGEMENT. The City of Pawnee Rock, Kansas shall join with Pawnee Rock Township of Barton County, Kansas, in the ownership, management, and control of Pawnee Rock Cemetery Association.  
(Ord. 73; Code 2011)