

Ordinance No. 359

AN ORDINANCE ENACTED APPROVING AND INCORPORATING BY REFERENCE THE 2031 OVERBROOK COMPREHENSIVE PLAN RELATING TO THE DEVELOPMENT OF THE CITY IN AN ORDERLY , EFFICIENT PATTERN AND PROVIDING FOR BASIC COMMUNITY SERVICES AND PUBLISHED IN BOOK FORM BY THE OVERBROOK CITY PLANNING COMMISSION.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OVERBROOK, KANSAS.

Section 1: Adoption: The Overbrook 2031 Comprehensive Plan is hereby approved and adopted by the Governing Body of the City of Overbrook, Kansas.

Section 2: Public Hearing: The public Hearing required by Kansas law was duly held on the 16th day of July, by the Overbrook Planning Commission a full and complete discussion of said Comprehensive Plan was held at said meeting and that the Comprehensive Plan was amended by the Governing Body.

Section 3: Official Copies: Not less than three (3) copies of the Overbrook Comprehensive Plan, in book form, shall be filed with the City Clerk to be open for inspection and available to the public at reasonable business hours.

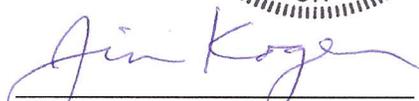
Section 4: Repeal: All other ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

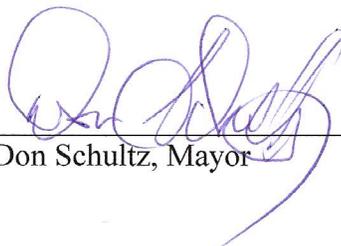
Section 5: Effective Date: This Ordinance shall be in full force and effective from and after its publication in the official city newspaper.

PASSED by the Governing Body of the City of Overbrook, Kansas and

APPROVED BY the Mayor this 14th day of September, 2011.




Attest: Jim Koger, City Clerk


Don Schultz, Mayor

ORDINANCE NO. 360

**AN ORDINANCE OF THE CITY OF OVERBROOK, KANSAS
REGULATING SMOKING AND TOBACCO PRODUCT USE
AT CITY SPORTS FIELDS**

The City Council of the City of Overbrook, Kansas does ordain as follows:

SECTION 1. FINDINGS. The City Council of the City of Overbrook finds and declares as follows:

WHEREAS, tobacco use causes death and disease and continues to be an urgent public health challenge; tobacco use and exposure to secondhand smoke impose great social and economic costs; and exposure to secondhand smoke anywhere has negative health impacts, and exposure to secondhand smoke does occur at significant levels outdoors.

NOW THEREFORE, it is the intent of the City Council in enacting this ordinance to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of smoking and tobacco use around non-tobacco users, especially children; by protecting the public from exposure to secondhand smoke where they play, exercise, and relax; by protecting the environment from tobacco-related litter; by reducing the potential for children to wrongly associate smoking and tobacco use with a healthy lifestyle; and by affirming and promoting a healthy environment in and around the City's recreational areas.

SECTION 2. DEFINITIONS. The following words and phrases, whenever used in this Ordinance, shall have the meanings defined in this section unless the context clearly requires otherwise:

(a) "City Outdoor Sports Facilities" means any outdoor area, including sidewalks and observation areas, but excluding parking areas, that is owned or operated by the City of Overbrook, Kansas and open to the general public for sports activities including softball, baseball, football, soccer, basketball, tennis, swimming and other sports or for playgrounds purposes, regardless of any fee or age requirement. The city lake is not a City Outdoor Sports Facility for purposes of this ordinance.

(b) "Children's Fishing Pond" means the pond located immediately east of the baseball diamonds and south of the playground.

(c) "Smoke" means the gases, particles, or vapors released into the air as a result of combustion, electrical ignition or vaporization, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the byproducts, except when the combusting or vaporizing material contains no tobacco or nicotine and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. The term "Smoke" includes, but is not limited to, tobacco smoke, electronic cigarette vapors, and marijuana smoke.

(d) "Smoking" means engaging in an act that generates Smoke, such as for example: possessing a lighted pipe, lighted hookah pipe, an operating electronic cigarette, a lighted cigar, or a lighted cigarette of any kind; or; or lighting or igniting of a pipe, cigar, hookah pipe, or cigarette of any kind.

(e) "Tobacco Product" means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, snus, bidis, or any other preparation of tobacco; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

SECTION 3. SMOKING AND TOBACCO PRODUCT USE PROHIBITED

(a) Smoking or using a Tobacco Product is prohibited anywhere in a City Outdoor Sports Facilities or the Children's Fishing Pond except in designated Smoking areas.

(b) Nothing in this Ordinance shall be construed to prohibit Smoking or Tobacco Product use in any area in which such Smoking or Tobacco Product use is already prohibited by state or federal law unless the applicable state or federal law does not preempt additional local regulation.

SECTION 4. PENALTIES. Any person, firm or corporation violating any of the provisions of this ordinance shall, upon conviction thereof, be fined a sum not to exceed Two Hundred and Fifty Dollars (\$250.00).

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its publication in the Osage County Herald-Chronicle. All ordinances or parts of ordinances in direct conflict with any of the provisions of this ordinance are hereby repealed.

Passed and approved by the Council this 14 day of December, 2011.



Don Schultz, Mayor

Attest:



Jim Koger, Clerk



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SECTION 4. PENALTIES. Any person, firm or corporation violating any of the provisions of this ordinance shall, upon conviction thereof, be fined a sum not to exceed Two Hundred and Fifty Dollars (\$250.00).

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its publication in the Osage County Herald-Chronicle. All ordinances or parts of ordinances in direct conflict with any of the provisions of this ordinance are hereby repealed.

Passed and approved by the Council this 14 day of December, 2011.



Don Schultz, Mayor

Attest:



Jim Koger, Clerk



ORDINANCE NO. 361

AN ORDINANCE RELATING TO YEARLY CEREAL MALT BEVERAGE LICENSES AND AMENDING FEES FOR THE APPLICATION/RENEWAL THEREOF. GAME MACHINE AND JUKE BOX LICENSE FEES HAVE NOT BEEN CHANGED.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OVERBROOK, KANSAS:

SECTION 1. THAT EFFECTIVE DECEMBER 14, 2011, there is hereby assigned and fixed, the following changes to the amount of the application fee charged for On-Premise and Off-Premise Cereal Malt Beverage Licenses within the City of Overbrook, Kansas:

THERE SHALL BE a City of Overbrook charge of One Hundred dollars (\$100.00) for each On-Premise Cereal Malt Beverage (CMB) Application/Renewal.

THERE SHALL BE a City of Overbrook charge of Fifty dollars (\$50.00) for each Off-Premise Cereal Malt Beverage (CMB) Application/Renewal.

SECTION 2. THERE SHALL BE an additional State of Kansas Twenty-Five dollar (\$25.00) CMB Stamp Fee per license.

SECTION 3. YEARLY GAME MACHINE license fees remain at \$10/machine.

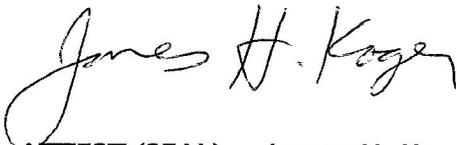
SECTION 4. YEARLY JUKE BOX license fees remain at \$7.50/machine.

SECTION 5. THAT this Ordinance shall take effect and be kept in force from and after its passage, approval and publication in the Official city newspaper, as provided by law.

PASSED AND APPROVED THIS 14th DAY OF DECEMBER, 2011.



Don Schultz, Mayor



ATTEST:(SEAL) James H. Koger, City Clerk

ORDINANCE NO. 362

AN ORDINANCE OF THE CITY OF OVERBROOK, KANSAS REGULATING THE SALE AND DISPLAY OF FIREWORKS

The City Council of the City of Overbrook, Kansas does ordain as follows:

FIREWORKS

Section 1. Fireworks Defined. For purposes of this ordinance, the term fireworks shall mean those items as defined by the rules and regulations of the Kansas state fire marshal, and shall include but not be limited to: firecrackers, torpedoes, sparklers, Roman candles, sky rockets, pin wheels, cap or toy pistols (except such pistols or any like device designed to discharge paper caps containing not more than .25 grains of explosive mixture), canes, bombs, cannons or other like devices and all classes of fireworks that may be shot into the air or propelled over the ground by explosive discharges or any device using blank cartridges.

Section 2. Fireworks Prohibited.

(a) Except as provided in Sections 3:6; it shall be unlawful for any person to keep, store, display for sale, fire, discharge or explode any fireworks. The possession or control by any person of any devices described in this ordinance and so charged and filled, upon the property of another without his permission, shall be deemed prima facie evidence of an intent to use the same or cause the same to be used for an unlawful purpose.

(b) Nothing in this ordinance shall be construed as applying to:

- (1) Toy paper caps containing not more than .25 of a grain of explosive composition per cap;
- (2) The manufacture, storage, sale or authorized use of signals necessary for the safe operation of railroads or other classes of public or private transportation;
- (3) The military or naval forces of the United States or of this state while in the performance of official duty;
- (4) Law enforcement officers while in the performance of official duty; or
- (5) The sale or use of blank cartridges for ceremonial, theatrical or athletic events.

Section 3. Same: Exceptions; Discharges.

(a) Section 2 of this ordinance shall not apply to the firing or discharge of fireworks in the city between the hours of 8:00 a.m. and 10:30 p.m. on June 27th through July 5th, EXCEPT on Fridays and Saturdays when fireworks may be discharged from 8:00 a.m. until 12:00 midnight, and EXCEPT on July 4, when fireworks may be discharged from 8:00 a.m. until 12:00 midnight. It shall be unlawful for any person to discharge, fire off or explode any squib, rocket, firecrackers or Roman candle, or other combustible fireworks within the City of Overbrook from and after July fifth (5th) and prior to June twenty-seventh (27th) of each calendar year. Furthermore, it shall be unlawful to discharge the heretofore-described fireworks in any business district in the City of Overbrook at any time.

(b) The governing body of the city may, in its discretion, grant permission at any time for the public display of fireworks by responsible individuals or organizations when such display or displays shall be of such a character and so located, discharged and fired as shall not be a fire hazard or endanger persons or surrounding property.

(c) It shall be unlawful for any person, firm or corporation to give any public display of fireworks without having first obtained a permit authorizing the public display.

Section 4. Same: Exception; Sale of Fireworks. Any person who has first obtained a valid permit to sell fireworks within the city may do so between the hours of 8:00 a.m., and 12:00 midnight commencing June 27th and through July 5th of each year.

Section 5. Permit for Sale of Fireworks Required; Fee; Issuance.

(a) It shall be unlawful for any person to sell, display for sell, offer to sell or give away any type of fireworks within the city without first paying a fee of 50.00 per establishment or premises to the city clerk and applying for and securing a permit therefor on or before April 27th of the permit year.

(b) No permit shall be issued for any location where retail sales are not permitted under the zoning laws. Prior to the issuance of the permit, an inspection will be made of the applicant's facility for compliance with this chapter and other pertinent laws, and no permit shall be issued for any premises not in compliance with such laws. Upon qualifying for the permit, the permittee shall prominently display the same at the establishment or premises where fireworks are to be sold or displayed for sale. The permit fee shall not be refundable upon failure to qualify for the permit or withdrawal or cancellation of the application or permit.

(c) No permit shall be issued without an application for permit, which includes the following information:

- (1) Name, address and contact information of the applicant.
- (2) Proposed location of the fireworks display
- (3) Such other information as the governing body deems necessary.

(d) Prior to the issuance of a permit, the applicant shall provide proof of liability insurance in a minimum amount of \$1,000,000.00 written by an insurance carrier licensed in Kansas, conditional on being non-cancelled except by giving 10-days advance written notice to the city clerk. When the city has an insurable interest, the policy shall name the city as an additional insured.

Section 6. Permit for Public Fireworks Display Required.

(a) It shall be unlawful for any person to give or provide a fireworks display for the public or for organized groups without first obtaining a permit to do so by making application at least 60 days in advance of the desired display. Approval of the permit shall be by the governing body. No permit shall be approved unless the applicant furnishes a certificate of public liability insurance for the display in a minimum amount of \$5,000,000.00 for a fireworks display, written by an insurance carrier licensed to do business in Kansas, conditioned as being non-cancellable except by giving 10 days advance written notice to the city clerk. When the city has an insurable interest, the policy shall name the city as an additional insured. In the event of cancellation of the insurance prior to the display, the permit shall automatically be revoked and void. The application for the permit shall clearly state:

- (1) The name of the applicant.
- (2) The group for which the display is planned.
- (3) The location of the display.
- (4) The date and time of the display.
- (5) The nature or kind of fireworks to be used.
- (6) The name of the person, firm or corporation that will make the actual discharge of the fireworks.
- (7) Anticipated need for police, fire or other municipal services.

(b) No permit shall be issued if the location, nature of the fireworks or other relevant factor is such as to create an undue hazard or risk of harm or damage to persons or property.

Section 7. Approved Fireworks; Bottle Rockets Prohibited.

- (a) All fireworks offered for sale and discharged within the city shall be of a type that has been tested and approved for sale and use within the state by the state fire marshal.
- (b) Bottle rockets and other similar self-propelled firework or fireworks devices consisting of a tube and attached guiding stock or rod shall not be sold or discharged in the city.

Section 8. Discharge on Streets and Public Property Prohibited. It shall be unlawful for any person to discharge, ignite or fire any fireworks upon Maple Street, or in any park within the city without a permit.

Section 9. Throwing Prohibited. It shall be unlawful for any person to throw, cast or propel fireworks of any kind in the direction of or into the path of any animal, person or group of persons, or from, in the direction of or into any vehicle of any kind.

Section 10. Sale of Fireworks; Where Prohibited.

- (a) It shall be unlawful for fireworks to be stored, sold or displayed for sale in a place of business where paint, oils, varnishes, turpentine or gasoline or other flammable substances are kept, unless such fireworks are in a separate and distinct section or department of the premises.
- (b) Where the fire chief deems there is a fire hazard, he or she is hereby authorized to have such hazard abated.

Section 11. Retail Display of Fireworks.

- (a) All retailers are forbidden to expose fireworks where the sun shines through glass on the merchandise displayed, except where such fireworks are in the original package.
- (b) All fireworks displayed for sale must remain in original packages, except where an attendant is on constant duty at all times where such fireworks are on display; provided, that fireworks in open stock may be kept in show cases or counters out of the reach of the public without an attendant being on duty.
- (c) Signs reading "Fireworks for Sale--No Smoking Allowed" shall be displayed in the section of a store or premises set aside for the sale of fireworks.

Section 12. Fire Extinguishers Required.

- (a) Two functioning and approved fire extinguishers must be provided and kept in close proximity to the stock of fireworks in all permanent buildings where fireworks are stored, sold or displayed for sale.
- (b) Small stands, temporarily erected to be used as a place for storing and selling fireworks only, shall have one such fire extinguisher, or in lieu of the fire extinguisher, a pressurized water hose

with nozzle end within five feet of the fireworks stand.

Section 13. Restrictions as to Gasoline Installations. It shall be unlawful to store, keep, sell, display for sale or discharge any fireworks within 100 feet of any gasoline pump, gasoline filling station, gasoline bulk station or any building in which gasoline or volatile liquids are sold in quantities in excess of one gallon, except in stores where cleaners, paints and oils are handled in sealed containers only.

Section 14. Authority of Police Chief. The chief of police is authorized to seize and confiscate all fireworks, which may be kept, stored or used in violation of any section of this ordinance, and all of the rules of the state fire marshal. He or she shall dispose of all such fireworks as may be directed by the governing body.

Section 15. Repeal of Inconsistent Ordinances. Sections 91-604, 91-605 and 91-606 of Ordinance 91 and all other ordinances of the City of Overbrook, Kansas that are inconsistent with this ordinance are hereby repealed.

Section 16. That this ordinance shall take effect and be kept in force from and after its passage, approval and publication in The Osage County Herald-Chronicle as provided by law.

Passed and approved by the Council this 14th day of March, 2012.



Don Schultz, Mayor

Attest:



Jim Koger, Clerk

