

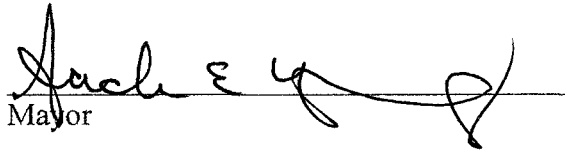
ORDINANCE NO. 301


AN ORDINANCE APPOINTING A BUILDING INSPECTOR

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

Robert W. Call is appointed the Building Inspector for the city of Overbrook, Kansas and is charged with the administration of the provisions of the Unsafe or Dangerous Structures and Abandoned Property for the state of Kansas and such other duties and responsibilities as the governing body assigns to him from time to time.

PASSED AND APPROVED this 8<sup>th</sup> day of August, 2007.

  
Mayor

ATTEST:  
  
City Clerk

ORDINANCE NO. 302

AN ORDINANCE REGULATING TRAFFIC WITHIN THE CORPORATE LIMITS OF THE CITY OF OVERBROOK, KANSAS: INCORPORATING BY REFERENCE THE "STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES, "EDITION OF 2007"; PROVIDING CERTAIN PENALTIES AND REPEALING ORDINANCE NO. 296.

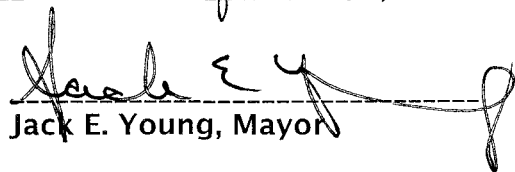
BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OVERBROOK, KANSAS:

SECTION 1. INCORPORATING STANDARD TRAFFIC ORDINANCE.

There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Overbrook, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities", Edition of 2007, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas. No fewer than three (3) copies of said Standard Traffic Ordinance shall be marked or stamped "Official Copy as Adopted by Ordinance No. 302", and to which shall be attached a copy of this Ordinance, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. The Police Department, Municipal Judge, and all administrative departments of the city charged with the enforcement of the ordinance shall be supplied, at the cost of the City, such number of official copies of such Standard Traffic Ordinance similarly marked, as may be deemed expedient.

SECTION 2. EFFECTIVE DATE: This ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper as provided by law.

PASSED AND APPROVED THIS 12<sup>th</sup> DAY OF September, 2007

  
Jack E. Young, Mayor

ATTEST:

(SEAL)

  
Cheryl L. Brown, City Clerk

ORDINANCE NO 303

AN ORDINANCE REGULATING PUBLIC OFFENSES WITHIN THE CORPORATE LIMITS OF THE CITY OF OVERBROOK, KANSAS: INCORPORATING BY REFERENCE THE "UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES", EDITION OF 2007 REPEALING ORDINANCE NO 297

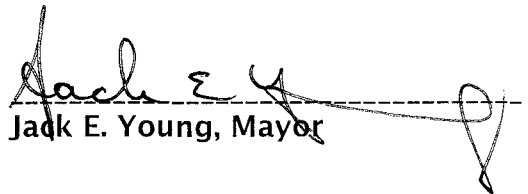
BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OVERBROOK, KANSAS:

SECTION 1. INCORPORATING UNIFORM PUBLIC OFFENSE CODE.

There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Overbrook, Kansas, that certain Code known as the "Uniform Public Offense Code", Edition of 2007, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas. No fewer than three (3) copies of said Uniform Public Offense Code shall be marked or stamped "Official Copy As Adopted by Ordinance No. 297, and to which shall be attached a copy of this ordinance, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours.

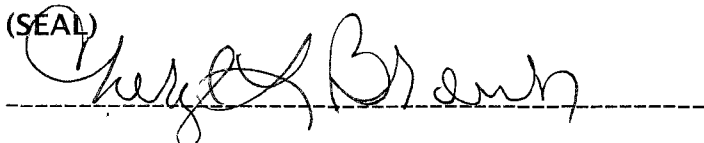
SECTION 2. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper as provided by law.

PASSED AND APPROVED THIS 12<sup>th</sup> DAY OF September, 2007.

  
Jack E. Young, Mayor

ATTEST:

(SEAL)

  
\_\_\_\_\_

Cheryl L. Brown, City Clerk

AN ORDINANCE AUTHORIZING THE OPERATION OF WORK-SITE UTILITY VEHICLES, ALL TERRAIN VEHICLES AND GOLF CARTS ON THE STREETS WITHIN THE CORPORATE LIMITS OF THE CITY OF OVERBROOK, KANSAS; PROVIDING FOR RELATED MATTERS INCLUDING PENALTIES FOR VIOLATION THEREOF.

Be it Ordained by the Governing Body of the City Overbrook, Kansas:

Section 1. OPERATION OF WORK-SITE UTILITY VEHICLES; PENALTY.

(a) Work-site utility vehicles may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city.

(b) "Work-site utility vehicle" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 135 inches, has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more low pressure tires, a steering wheel and bench or bucket type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials.

(c) No work-site utility vehicle shall be operated on any public highway, street, road or alley unless such vehicle shall comply with the equipment requirements under the provisions of article 17, chapter 8 of the Kansas Statutes Annotated.

(d) Every person operating a work-site utility vehicle on the public highways, streets, roads and alleys of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law.

(e) A violation of this section shall be deemed an ordinance traffic infraction. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201, 2007 Standard Traffic Ordinance, and amendments thereto, or such other similar provision as the city may then have in effect.

Section 2. SAME: VALID DRIVER'S LICENSE REQUIRED; PENALTY.

No person shall operate a work-site utility vehicle on any public highway, street, road or alley within the corporate limits of the city unless such person has a valid driver's license. Violation of this section is punishable by a fine of not more than \$1,000 or by imprisonment for not more than six months or by both such fine and imprisonment.

Section 3. OPERATION OF ALL-TERRAIN VEHICLE OR GOLF CART.

(a) All-terrain vehicles and golf carts may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city.

(b) "All-terrain vehicles and golf carts" means any motorized non-highway vehicle 48 inches or less in width, having a dry weight of 1,000 pounds or less, traveling on three or more low pressure tires, and having a seat to be straddled by the operator. As used in this subsection, "low pressure tire" means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 12 inches or less, and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.

(c) No All-terrain vehicles or golf carts shall be operated on any public highway, street, road or alley between sunset and sunrise unless equipped with lights as required for motorcycles.

(d) Every person operating an All-terrain vehicle or golf cart on the public highways, streets, roads and alleys of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law.

(e) A person operating an All-terrain vehicle or golf cart shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on an All-terrain vehicle or golf cart, unless such All-terrain vehicle or golf cart is designed to carry more than one (1) person, in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the All-terrain vehicle or golf cart at the rear or side of the operator.

(f) A person shall ride upon an All-terrain vehicle or golf cart only while sitting astride the seat, facing forward, with one leg on each side of the All-terrain vehicle or golf cart.

(g) No person shall operate an All-terrain vehicle or golf cart while carrying any package, bundle, or other article which prevents such person from keeping both hands on the handlebars.

(h) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the All-terrain vehicle or golf cart or the view of the operator.

#### Section 4. SAME; ROADWAYS LANED FOR TRAFFIC.

(a) All All-terrain vehicles and golf carts are entitled to full use of a lane, and no motor vehicle shall be driven in such a manner as to deprive any All-terrain vehicle or golf cart of the full use of a lane. This subsection shall not apply to All-terrain vehicles and golf carts operated two (2) abreast in a single lane.

(b) The operator of an All-terrain vehicle or golf cart shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

(c) No person shall operate an All-terrain vehicle or golf cart between lanes of traffic or between adjacent lines or rows of vehicles.

(d) All-terrain vehicles and golf carts shall not be operated more than two (2) abreast in a single lane.

(e) Subsections (b) and (c) shall not apply to police officers in the performance of their official duties.

#### Section 5. SAME; CLINGING TO OTHER VEHICLES PROHIBITED.

No person riding upon an All-terrain vehicle or golf cart shall attach himself, herself or the All-terrain vehicle or golf cart to any other vehicle on a roadway.

#### Section 6. SAME; EQUIPMENT ON ALL-TERRAIN VEHICLES AND GOLF CARTS FOR PASSENGERS.

Any All-terrain vehicle or golf cart carrying a passenger shall be equipped with a seat and footrests for such passenger.

#### Section 7. SAME; PENALTIES.

A violation of any provision in sections 3 through 6 shall be deemed an ordinance traffic infraction. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201, 2007 Standard Traffic Ordinance, as amended, or such other similar provision as the city may then have in effect.

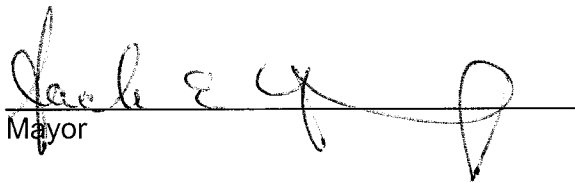
#### Section 8. SAME: VALID DRIVER'S LICENSE REQUIRED; PENALTY.

No person shall operate an All-terrain vehicle or golf cart on any public highway, street, road or alley within the corporate limits of the city unless such person has a valid driver's license. Violation of this section is punishable by a fine of not more than \$1,000 or by imprisonment for not more than six months or by both such fine and imprisonment.

Section 9. PUBLICATION; EFFECTIVE DATE:

This ordinance shall be published one time in the official city newspaper and shall take effect and be in force from and after said publication.

Passed by the city council and this 20<sup>th</sup> day of November, 2007, and signed by the mayor on the 20<sup>th</sup> day of November, 2007.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

[SEAL]

ORDINANCE NO. 307

AN ORDINANCE, granting to Kansas Gas Service, a Division of ONEOK, Inc., its successors and assigns, a natural gas franchise, prescribing the terms thereof and relating thereto, and repealing all ordinances or parts of ordinances inconsistent with or in conflict with the terms hereof.

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

SECTION 1. That in consideration of the benefits to be derived by the City of Overbrook, Kansas, ("City"), and its inhabitants, there is hereby granted to Kansas Gas Service, a Division of ONEOK, Inc. ("Company"), said Company operating a system for the transmission and distribution of natural gas in the State of Kansas, the right, privilege, and authority for a period of twenty (20) years from the effective date of this ordinance, to occupy and use the several streets, avenues, alleys, bridges, parks, parking areas, and public places of said City, for the placing and maintaining of equipment and property necessary to carry on the business of selling and distributing natural gas for all purposes to the City, and its inhabitants, and through said City and beyond the limits thereof; to obtain said natural gas from any source available; and to do all things necessary or proper to carry on said business.

SECTION 2. As further consideration for the granting of this franchise, and in lieu of any city occupation, license, or permit fees, or revenue taxes, the Company shall pay to the City during the term of this franchise three percent (3%) of the gross cash receipts from the sale of natural gas for consumption in the City for all purposes within the corporate limits of the City, such payments to be made monthly for the preceding monthly period. Gross cash receipts shall not include other operating revenues received by the Company, which are not related to the "sale of natural gas". These include, but are not limited to, connection fees, disconnection and reconnection fees, temporary service charges, delayed or late payment charges, collection fees, and returned check charges as such terms are used in tariffs or in the natural gas industry.

SECTION 3. The payments and compensation herein provided shall be in lieu of all other licenses, taxes, charges, and fees, except that the usual general property taxes and special ad valorem property assessments, sales, and excise taxes or charges made for privileges which are not connected with the natural gas business, will be imposed on the Company and are not covered by the payments herein. From and after the date hereof, however, the permit fees required of the Company by any ordinance presently in effect or hereafter adopted for a permit to excavate in or adjacent to any street, alley, or other public place shall be deemed a part of the compensation paid in Section 2 and shall not be separately assessed or collected by the City; in no event, however, shall this provision be interpreted to waive the requirement of notice to the City and the procedural requirements of such ordinance.

SECTION 4. The use of Right of Way under this franchise by the Company shall be subject to all rules, regulations and policies now or hereafter adopted or promulgated by the City in the reasonable exercise of its police power. In addition, the Company shall be subject to all rules, regulations and policies now or hereafter adopted or promulgated by the City relating to permits, sidewalk and pavement cuts, utility location, construction coordination, and other requirements on the use of the Right of Way; provided however, that nothing contained herein shall constitute a waiver of or be construed as waiving the right of the Company to oppose,

challenge, or seek judicial review of, in such manner as is now or may hereafter be provided by law, any such rules, regulation or policy proposed, adopted, or promulgated by the City and further provided other than the items enumerated in Section 3 herein, that such rules, regulations or policies shall not require the payment of additional fees or additional costs for the use of the Right of Way. In any event, the Company is granted an offset for such fees and costs against the franchise fees required to be paid hereunder.

SECTION 5. All mains, services, and pipe which shall be laid or installed under this grant shall be so located and laid as not to obstruct or interfere with any water pipes, drains, sewers, or other structures already installed. Company shall provide, prior to commencing work, information to the City concerning work to be performed in the streets, avenues, bridges, parks, parking areas, and public places of the City, as the City may from time to time require for purposes of record keeping. The City may require that the information be provided on its standard permit form, but without requiring approval, consent, or fees. In the event of an emergency, Company shall have the right to commence work without having first providing such form(s).

SECTION 6. Company shall, in doing the work in connection with its said gas mains, pipes, and services, avoid, so far as may be practicable, interfering with the use of any street, alley, avenue, or other public thoroughfare. It shall, without expense to the City, and in a manner satisfactory to the duly authorized representatives of the City, replace such paving or surface in substantially as good condition as before said work was commenced.

SECTION 7. It is recognized that the natural gas to be delivered hereunder is to be supplied from a pipeline system transporting natural gas from distant sources of supply; and the Company, by its acceptance of this franchise as hereinafter provided, does obligate itself to furnish natural gas in such quantity and for such length of time, limited by the terms hereof, as the said sources and said pipelines are reasonably capable of supplying.

SECTION 8. Company, its successors and assigns, in the construction, maintenance, and operation of its natural gas system, shall use all reasonable and proper precaution to avoid damage or injury to persons and property, and shall hold and save harmless the City from any and all damage, injury, and expense caused by the negligence of said Company, its successors and assigns, or its or their agents or servants.

SECTION 9. After the approval of this Ordinance by the City, Company shall file with the City Clerk of the City its written acceptance of this Ordinance. Said Ordinance shall become effective and be in force and shall be and become a binding contract between the parties hereto, their successors and assigns, no later than the first cycle of the monthly billing cycle which begins no later than sixty (60) days after its passage and approval by the City, acceptance by the Company, and publication in the official City newspaper. In its letter of acceptance, Company shall identify the effective date as set forth above and Company shall begin charging its customers those fees set forth in Section 2 above on that date.

SECTION 10. This Ordinance, when accepted as above provided, shall constitute the entire agreement between the City and the Company relating to this franchise and the same shall supercede and cancel any prior understandings, agreements, or representations regarding the subject matter hereof, or involved in negotiations pertaining thereto, whether oral or written, shall be binding upon the parties, including their successors and assigns, and shall not be amended or further obligations imposed without mutual consent of the parties hereto.

SECTION 11. 1. Upon written request of either the City or the Company, this franchise may be reviewed after eight (8) years from the effective date of this ordinance, and



every six (6) years thereafter to review the rate set forth in Section 2 above. Said request must be served upon the other party at least one hundred twenty (120) days prior to the end of each period set forth above, and shall state specifically the amendments desired. The City and the Company shall negotiate in good faith in an effort to agree upon mutually satisfactory amendments.

Amendments under this section, if any, shall be made by ordinance as prescribed by statute. Except as provided within this section the franchise shall remain in effect according to its terms pending completion of any review or renegotiation provided by this subsection.

II. Upon written request of either the City or the Company, the franchise shall be reopened and renegotiated at any time upon any of the following events:

- (a) Change in federal, state, or local law, regulation, or order which materially affects any rights or obligations of either the City or Company, including, but not limited to, the scope of the grant to the Company or the compensation to be received by the City.
- (b) Change in the structure or operation of the natural gas industry which materially affects any rights or obligations of either the City or Company, including, but not limited to, the scope of the grant to the Company or the compensation to be received by the City.
- (c) Any other material and unintended change or shift in the economic benefit to the City or the Company relied upon and anticipated upon entering into this franchise.

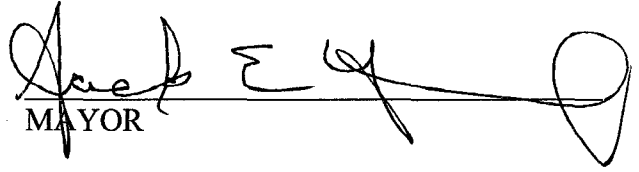
III. The compensation provision of this franchise shall be reopened and renegotiated at any time if energy consumers within the City have access to alternative natural gas suppliers or other suppliers of energy through pipelines, and use the public rights of way or public property of the City without paying a franchise fee or other payment substantially equivalent to the franchise fee established herein, which results in a material and unfair disadvantage to the Company. The use of right of provision of this franchise shall be reopened and renegotiated if energy consumers within the City have access to alternative natural gas suppliers or other suppliers of energy through pipelines which use the public rights of way or public property of the City, and do not have requirements on the use of the public ways substantially equivalent to the requirements of this franchise, which results in a material and unfair disadvantage to the Company. Upon any such event, the City shall have up to ninety (90) days after written request of the Company to restore competitive neutrality. Following notice to the City, Company may suspend collection and payment of the franchise fee to the City for the affected customers until the City resolves the competitive disadvantage. After the last above referred ninety (90) day period expires without resolution of the competitive disadvantage, the Company shall have no liability to the City for any uncollected franchise fees suspended as provided in the subsection.

SECTION 12. The franchise is granted pursuant to the provisions of K.S.A. 12-2001 and amendments thereto.

SECTION 13. Any and all ordinances or parts of ordinances in conflict with the terms hereof are hereby repealed or considered as having no effect as of the first cycle of the monthly billing cycle as referenced in Section 9 of this ordinance.

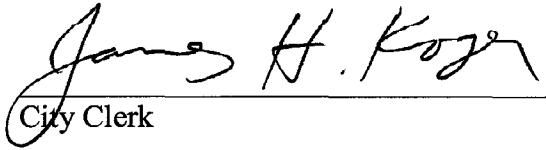
SECTION 14. Should the Kansas Corporation Commission take any action with respect to this franchise ordinance and any amendment thereto which precludes Company from recovering from its customers any costs or fees provided for hereunder, the parties hereto shall renegotiate this ordinance in accordance with the Commission's ruling.

PASSED AND APPROVED this 12<sup>th</sup> day of March, 2008.

  
MAYOR

(SEAL)

ATTEST:

  
City Clerk

ORDINANCE NO. 308

AN ORDINANCE RELATING TO THE WATERWORKS SYSTEM AND FIXING RATES AND CHARGES FOR THE CONNECTION WITH AND USE OF WATER FROM THE SAME AND FEES, AND REPEALING SECTION 1 OF ORDINANCE NO. 272.

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

SECTION 1. THAT EFFECTIVE April 9, 2008, there is hereby assigned And fixed, the following monthly rates and charges for the use Of water from the waterworks system supplied by the City Of Overbrook, Kansas:

MINIMUM CHARGE - FIRST 1,000 GALLONS....\$12.96

ALL OVER 1,000 GALLONS.....\$7.02/1000 GALLONS  
OR FRACTION THEREOF

PUBLIC SCHOOLS WITHIN THE CITY LIMITS OF OVERBROOK SHALL BE SUBJECT TO A MONTHLY CHARGE OF A FLAT RATE OF \$7.02/1000 GALLONS. (NOT SUBJECT TO MINIMUM)

SECTION 2. THAT said Section 1 of Ordinance No. 272 is hereby repealed.

SECTION 3. 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 9TH DAY OF APRIL, 2008.

/S/ JACK E. YOUNG, MAYOR

ATTEST:(SEAL)

/S/ JAMES H. KOGER CITY CLERK

ORDINANCE NO. 309

AN ORDINANCE RELATING TO THE SEWER SERVICE SYSTEM AND FIXING RATES AND CHARGES FOR THE USE THEREOF FROM THE SAME; AND REPEALING ORDINANCE NO. 285.

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

SECTION 1. THAT EFFECTIVE APRIL 9, 2008, there is hereby assigned and fixed, the following monthly rates and charges for the use of sewer services within the City of Overbrook, Kansas:

THERE SHALL BE a minimum charge of Eight dollars and Ten cents (\$8.10) per month, or any portion thereof, for each single family dwelling, mobile home, apartment, multiple family dwelling, commercial and industrial building whose water consumption is less than 1,000 gallons per month.

THERE SHALL BE an additional charge of Two dollars and Forty-Three cents (\$2.43) per month, or any portion thereof, for each additional 1,000 gallons of water used in excess of 1,000 gallons per month with no maximum charge.

SECTION 2. THAT Ordinance No. 285 in its entirety is hereby repealed.

SECTION 3. 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 9th DAY OF APRIL, 2008

/S/Jack E. Young, Mayor

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

# **ORDINANCE NO. 310**

## **SECTION 1. TITLE**

This ordinance shall be known and cited as the Zoning Ordinance of the City of Overbrook, Kansas.

## **SECTION 2. ESTABLISHMENT OF DISTRICTS OR ZONES**

1. For the purpose of promoting the public health safety and general welfare of the community, the City of Overbrook, Kansas is hereby divided into the following types of districts or zones.

R-1 Single Family Dwellings

R-2 Two Family Dwellings

R-3 Multiple Family Dwellings

M-1 Manufactured Homes, Class B or C B-1 Business-General & Commercial I-1 Industrial

P-1 Public Use

C Conditional Use

2. Said districts are bounded and identified as shown on the map entitled "Zoning Map" of the City of Overbrook, Kansas, adopted this day of April 9, 2008, and certified by the city clerk, which accompanies this ordinance and which, with all explanatory matter thereto, is attached hereto and made a part hereof as though fully described herein at length.

## **SECTION 3. DEFINITIONS**

Unless specifically defined herein, all words used in this ordinance shall carry their customary meanings. Words used in the present tense include the future and plurals include the singular. The word "building" includes the word "structure". "Occupied or used" shall be construed as though followed by the words "or intended, arranged or designed to be used or occupied." Any words not specifically defined herein shall be construed and defined as normally construed and defined in building codes.

1. **ACCESSORY USE.** A use incidental to the principal use of a building. In buildings restricted to residence use, the office of a professional person or customary family occupations and work-shops not conducted for compensation shall be deemed accessory use.
2. **ALTERATIONS.** As applied to a building or structure means a change or rearrangement in the structural parts or in the exit facilities, or enlargement,

whether by extending on the side or by increasing the height or moving from one location or position to another.

3. **ALTERATIONS, STRUCTURAL.** Any change in location of the supporting timbers of the building, such as bearing walls, columns, beams or girders.
4. **BUILDING.** Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosing of persons, animals, or chattels.
5. **BUILDING, ACCESSORY.** A subordinate building or a portion of the main building on a lot, the use of which is customarily incidental to that of the main or principal building.
6. **BUILDING, PRINCIPAL.** A building in which is conducted the main or principal use of the lot on which said building is situated.
7. **DWELLING.** A building designed or used exclusively as the living quarters for one or more families.
8. **DWELLING UNIT.** An enclosure containing sleeping, kitchen and bathroom facilities designed for and used or held ready for use as a permanent residence by one family. Travel trailers and mobile campers that are motorized vehicles are not defined as "dwelling units."
9. **FAMILY.** One or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit.
10. **GARAGE.** An accessory building intended or designed to be used for the storage of motor vehicles belonging to the persons occupying a dwelling and not used for commercial storage or repair of vehicles.
11. **HOME OCCUPATION.** An occupation for gain or support conducted only by members of the family residing on the premises and conducted entirely within the dwelling.
12. **MANUFACTURED HOUSE.** A dwelling unit substantially assembled in an off-site manufacturing facility for transportation in one or more sections to be installed or assembled at the dwelling site, bearing a label certifying that it was built in compliance with current National Manufactured Home Construction and Safety Standards (24 CFR 3280 et seq.) promulgated by the U.S. Department of Housing and Urban Development.
13. **MANUFACTURED HOUSE, CLASS A.** A Manufactured House, Class A, when installed shall have substantially the appearance of an on-site, conventionally built, single-family dwelling. A Class A Manufactured House meets or exceeds the

construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfy the following criteria:

- a. The manufactured house has a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.
  - b. The manufactured house has a minimum of 1000 square feet of enclosed and heated living area.
  - c. The pitch of the roof of the manufactured house has a minimum vertical rise of 4 feet for each 12 feet of horizontal run and the roof is finished with a type of shingle, tile or formed metal that is commonly used in standard residential construction.
  - d. All roof structures shall provide an eave projection of no less than 12 inches, excluding gutter.
  - e. The exterior siding consists predominately of vinyl or metal horizontal lap siding, wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction in the city.
  - f. The manufactured house is set up in accordance with the recommended installation procedures of the manufacturer and the standards set by the National Conference of States on Building Codes and Standards, Chapter 2 (NCS/13CS A225.1) (Manufactured Home Installations) herein adopted by reference.
  - g. The manufactured house shall be installed on permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access.
  - h. The manufactured house must have been constructed within 15 years of the date of application for permit.
  - i. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the city building codes and be attached firmly to the primary structure and anchored securely to the ground.
  - j. Moving hitch, wheels, and axles and transporting lights must be removed.
14. MANUFACTURED HOUSE, CLASS B. A manufactured house constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction, and that meet or exceed criteria (a), (g), (h), (i), and (j), as defined in Manufactured House, Class A.
15. MANUFACTURED HOUSE, CLASS C. Any manufactured house as defined in this ordinance that meets Item 13 (h), Manufactured House, Class A, but does not meet all the other definitional criteria of Manufactured House, Class A or Class B.
16. MULTIPLE FAMILY DWELLINGS. A dwelling unit having three or more separate family units in a single building.

17. NON-CONFORMING USE. A building or premises occupied by use that does not conform with the regulations of the use district or zone in which it is situated at the time of the passage of this ordinance.
18. TWO FAMILY DWELLINGS. Typically called a duplex. A dwelling unit that has two separate family units in a single building.
19. YARD, FRONT. An open unoccupied space on the same lot with the main building extending the full width of the lot and situated between the front line of the lot and the main building. Covered porches, whether enclosed or unenclosed, shall be considered a part of the main building and shall not project into the required front yard.
20. YARD, REAR. An open unoccupied space on the same lot with the main building between the rear line of the building and the rear line of the lot and extending the full width of the lot. Covered porches, whether enclosed or unenclosed, shall be considered a part of the main building and shall not project into the required rear yard.
21. YARD, SIDE. An open unoccupied space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a front line nor a rear line shall be deemed a side line.

#### SECTION 4. APPLICATION OF REGULATIONS (EXCEPTIONS AS HEREINAFTER PROVIDED).

1. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.
2. No building shall hereafter be erected or altered on a lot containing less area, to occupy a greater percentage of lot area or to have narrower or smaller front yards, rear yards, or side yards than as specified herein for the district in which such building is located.
3. No part of the yard or other open space required about any building for the purpose of complying with the provisions of this ordinance shall be included as a part of the yard or other open space similarly required for another building.

#### SECTION 5. R-1 RESIDENTIAL DISTRICTS

The following regulations shall apply in all R-1 Residential Districts.



1. Uses Permitted
  - a. Single-family dwellings
  - b. Single-family dwellings, Manufactured Home, Class A as defined in Section 3 (13)
  - c. Church or similar place of worship, parish house
  - d. Public parks and playgrounds, golf courses and similar recreational areas not operated for profit.
  - e. Public schools and institutions of higher learning, public libraries, municipal buildings
  - f. Moved-in buildings, provided, however, that said building shall conform to all the fire safety and health regulations and all other pertinent ordinances of the City of Overbrook, Kansas, and the laws of the State of Kansas, and said moved-in building shall conform with the neighboring property to the extent that said building shall not devalue surrounding property. The determination as to whether or not said moved-in building devaluates surrounding property shall be determined by the Planning Commission
  - g. Customary home occupation, provided that there shall be no external evidence of such occupation, except a small unlit announcement or professional sign not over two square feet in area and that a permit for such home occupation be obtained from the Planning Commission.
2. Required Lot Area. Each single-family dwelling shall be located on a lot having an area of not less than 10,000 square feet.
3. Percentage of Lot Coverage. The principal and accessory buildings on any lot shall not cover more than 50 per cent of the area of such lot.
4. Yards Required. Yards of the following depths or widths shall be required: Front yard depth 30 feet from the property line, including, side yard width 10 ft. from neighbor's boundary, rear yard depth 5 feet from property line and or utility easement. A corner lot shall also be required to have a side yard width of 30 feet from the street side.

## SECTION 6. R-2 RESIDENTIAL DISTRICTS

The following regulations shall apply in all R-2 Residential Districts.

1. Uses Permitted
  - a. Two Family dwelling
  - b. Church for similar place of worship, parish house.
  - c. Public parks and playgrounds, golf courses and similar recreational areas not operated for profit.

- d. Public schools and institutions of higher learning, public libraries, municipal buildings
  - e. Moved-in buildings, provided, however, that said building shall conform to all the fire safety and health regulations and all other pertinent ordinances of the City of Overbrook, Kansas, and the laws of the State of Kansas, and said moved-in building shall conform with the neighboring property to the extent that said building shall not devalue surrounding property. The determination as to whether or not said moved-in building devalues surrounding property shall be determined by the Planning Commission
  - f. Customary home occupation, provided that there shall be no external evidence of such occupation, except a small announcement or professional sign not over two square feet in area and that a permit for such home occupation be obtained from the Planning Commission.
2. Required Lot Area. Each multiple family dwelling shall be located on a lot having an area of not less than 10,000 square feet.
  3. Percentage of Lot Coverage. The principal and accessory buildings on any lot shall not cover more than 50 per cent of the area of such lot.
  4. Yards Required. Yards of the following depths or widths shall be required: Front yard depth 30 feet from the property line, side yard width 10 ft. from neighbor's boundary, rear yard depth 5 feet from property line and or utility easement.

## SECTION 7. R-3 RESIDENTIAL DISTRICTS

The following regulations shall apply in all R-3 Residential Districts.

1. Uses Permitted
  - a. Multiple-Family dwelling.
  - b. Church or similar place of worship, parish house.
  - c. Public parks and playgrounds, golf courses and similar recreational areas not offered for profit.
  - d. Public schools and institutions of higher learning, public libraries, municipal buildings.
  - e. Moved-in buildings, provided, however, that said building shall conform to all the fire safety and health regulations and all other pertinent ordinances of the City of Overbrook, Kansas, and the laws of the State of Kansas, and said moved-in building shall conform with the neighboring property to the extent that said building shall not devalue surrounding property. The determination as to whether or not said moved-in building devalues surrounding property shall be determined by the Planning Commission.
  - f. Customary home occupation, provided that there shall be no external evidence of such occupation, except a small announcement or professional sign not over

two square feet in area and that a permit for such home occupation be obtained from the Planning Commission.

2. Required Lot Area. Each multiple family dwelling shall be located on a lot having an area of not less than 10,000 square feet.
3. Percentage of Lot Coverage. The principal and accessory buildings on any lot shall not cover more than 75 per cent of the area of such lot.
4. Yards Required. Yards of the following depths or widths shall be required: Front yard depth 30 feet from the property line, side yard width 10 ft. from neighbor's boundary, rear yard depth 5 feet from property line and or utility easement.

## SECTION 8. M-1 RESIDENTIAL DISTRICTS, Manufactured Homes, Class B or C

The following regulations shall apply in all M-1 Residential Districts.

1. Uses permitted.
  - a. Manufactured Homes, Class B or C as defined in Section 3, Section 14 and 15.
  - b. Church or similar place of worship, parish house.
  - c. Public parks and playgrounds, golf courses and similar recreational areas not operated for profit.
  - d. Public schools and institutions of higher learning, public libraries, municipal buildings.
  - e. Moved-in buildings, provided, however, that said building shall conform to all the fire safety and health regulations and all other pertinent ordinances of the City of Overbrook, Kansas, and the laws of the State of Kansas, and said moved-in building shall conform with the neighboring property to the extent that said building shall not devalue surrounding property. The determination as to whether or not said moved-in building devaluates surrounding property shall be determined by the Planning Commission.
  - f. Customary home occupation, provided that there shall be no external evidence of such occupation, except a small unlit announcement or professional sign not over two square feet in area and that a permit for such home occupation be obtained from the Planning Commission.
2. Required Lot Area. Manufactured House, Class B or C, shall be located on a lot having an area of not less than 5,000 square feet.
3. Percentage of Lot Coverage. The principal and accessory buildings on any lot shall not cover more than 50 per cent of the area of such lot.
4. Yards Required. Yards of the following depths or widths shall be required: Front yard depth 30 feet from the property line, including off-street parking for at least

one automobile, side yard width 10 ft. from neighbor's boundary, rear yard depth 5 feet from property line and or utility easement.

## SECTION 9. BUSINESS DISTRICT-GENERAL AND COMMERCIAL

### 1. Uses Permitted.

- a. All uses permitted in any residential district subject to all provisions specified for such residential districts
- b. Stores and shops for the conducting of retail business
- c. Personal Service shops and laundries
- d. Banks, offices, studios
- e. Shops for custom work or the making of products to be sold at retail on the premises.
- f. Restaurants, cafes, tea rooms and similar establishments
- g. Theaters, assembly halls, billiard or pool parlors, bowling alleys, taverns and any public recreational use
- h. Hotels or motels
- i. Motor vehicles sales rooms, garage, service station, implement sales or repair.
- j. Bus stations, power plants, printing plant, newspaper office.
- k. Wholesale business, storage in bulk of or warehouse for such materials as building material, construction equipment, clothing, drugs, dry goods, seed, food, furniture, hardware, metals, oil and petroleum, paint and paint supplies, pipe, rubber, wood, grain and fertilizer
- l. Accessory buildings and accessory uses in connection with business uses
- m. Car wash

- ### 2. Yards Required. Front yards, none required; side yards, none required; rear yards, not less than 5 feet but with ample space for the providing of loading and unloading of goods, supplies and materials on the premises without the blocking of public alleys or roadways.

## SECTION 10. I-1 INDUSTRIAL DISTRICTS.

The following regulations shall apply to all I-1 Districts.

1. Uses Permitted. All uses not otherwise prohibited by law.
2. Uses Prohibited. The following uses are prohibited, provided, however, that any such uses may be permitted if approved by the Planning Commission with such restrictions and safeguards as may be required by said Commission and upon securing a permit therefore. All uses or industrial processes that may be nauseous or injurious by reason of the production or emission of dust, smoke, refuse matter, odor, gas, fumes, noise, vibration or similar circumstance or condition.

3. Building Height Limit. No building shall be constructed higher than two (2) stories without approval by the city council.
4. Yards Required.
  - a. Each lot shall have a front yard of not less than 20 feet in depth.
  - b. Side yards shall be a minimum of 10 feet.
  - c. There shall be a rear yard of not less than 25 feet with adequate parking and loading and unloading areas provided solely upon the lot.

## SECTION 11. P-1 PUBLIC USE

The following regulations shall apply to all P-1, Public Use districts.

1. Uses Permitted. Schools, parks, buffer areas, pool and fairgrounds that are held in the public domain for public use.
2. Uses Prohibited. All other uses except as approved by the Planning Commission.
3. Yards Required.
  - a. Each lot shall have a front yard of not less than 20 feet.
  - b. Side yards shall be a minimum of 10 feet
  - c. Rear yards shall be a minimum of 20 feet.

## SECTION 12. C- CONDITIONAL USE

The following regulations shall apply to all C, Conditional Use districts.

1. Uses permitted. Only the uses as designated by the Governing Body of the City of Overbrook and only for the permitted period of time.
2. Uses Prohibited. All other uses.

## SECTION 12a. CONDITIONAL USE PERMIT

The governing body of the City of Overbrook may permit variations of the strict application of the terms of this ordinance as are in harmony with its general purpose and intent. Pursuant to said authority, the governing body may grant to an applicant, for the term of his or her ownership of property described in his or her application therefore, a "Conditional Use Permit", which shall allow and permit such person to use his or her property in a manner which would otherwise be in violation of this

ordinance, providing such variation will not be injurious to the neighborhood or otherwise detrimental to other owners of property or to the public welfare.

The applicant shall file such application with the governing body, which shall first be submitted to the City Planning Commission, which shall study said application and make its recommendations to the governing body.

A time and place of hearing for the application shall be fixed by the governing body within thirty days from receipt of the same and notice of such hearing shall be given by publication once in the official city newspaper at least twenty days prior to the hearing. Any party may appear at said hearing in person or by attorney. The governing body shall render its decision upon the conclusion of said hearing or, in any event, not later than five days from the adjournment of said hearing.

A fee of \$250.00 shall be paid by the applicant and shall be credited to the City Clerk to the General Fund of the City of Overbrook, Kansas.

Such conditional use permit shall expire upon the death of the person to whom it is granted or upon his or her sale or transfer of the property, or such person's discontinuance of such use.

### SECTION 13. Non-Conforming Buildings and Uses

The lawful use of any building or land existing at the time of the enactment of this ordinance may be continued except as hereinafter provided. If such use does not conform to the provisions of this ordinance and is discontinued, any future use of said premises shall be in conformity with the provisions of this ordinance.

1. **Unsafe Structures.** Any structure or portion thereof declared to be unsafe by proper authority and designated as unsafe by the governing body of the City of Overbrook may be restored to a safe condition.
2. **Alterations.** A non-conforming building may not be reconstructed or structurally altered during its life to an extent exceeding the aggregate cost greater than 75 percent of the total value of the building, unless said building is changed to a conforming use.
3. **Extension.** A non-conforming use shall not be extended but the extension of a lawful use to any portion of a non-conforming building which existed prior to the enactment of this ordinance shall not be deemed the extension of such non-conforming use.
4. **Construction Approved Prior to Ordinance.** Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit or authority has been given and the construction of which shall

have been diligently prosecuted and which entire building shall be completed according to such plans and specifications as originally determined within one year from the date of the passage of this ordinance.

5. Restoration. No building damaged by fire or other cause to the extent of more than 75 percent of its actual value shall be repaired or rebuilt except in conformity with the regulations of this ordinance.
6. Abandonment. Whenever a non-conforming use has been discontinued for a period of 30 days, such use shall not thereafter be re-established, and any future use shall be in conformity with the provisions of this ordinance. This provision shall be construed to apply to a Manufactured House, Class B or C, which, once removed from the property may only be replaced within the said 30 day period, by a Manufactured House, Class B or C of equal or higher quality and value.
7. Changes. Once changed to a conforming use, no building or land shall be permitted to revert to a non-conforming use.
8. Displacement. No non-conforming use shall be extended to displace a conforming use.
9. District or Zone Changes. Whenever the boundaries of a district shall be change (so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall apply also to any non-conforming use existing therein.
10. Public Structures. Any structure may be erected and premises used in any location for public utility purposes for which the governing body of the City of Overbrook, Kansas, deems reasonably necessary for the public convenience and welfare.

#### SECTION 14. ENFORCEMENT

This ordinance shall be enforced by the Building Inspector of the City of Overbrook, Kansas. The Building Inspector shall be appointed by the Mayor of the City of Overbrook, Kansas, and approved by the governing body of Overbrook, Kansas. No building permit or certificate of occupancy shall be granted by the Building Inspector for any purpose except in compliance with the provisions of this ordinance.

#### SECTION 15. BUILDING PERMITS.

1. No building or structure shall be erected, added to or structurally altered until a permit therefore has been approved by the building inspector and issued by the city

clerk. An application fee at a total cost of \$1.00 per \$1,000.00 of estimated value of completed structure with a minimum charge of \$25.00 will be assessed for each permit. All applications for such permits shall be made to the building inspector and such applications shall set forth a plan or sketch of the proposed building or structure and shall be in compliance with this ordinance and shall have an expiration of 12 months. The building inspector shall have discretion to require survey, plat or such other documentation as the building inspector deems necessary to insure compliance with existing setbacks, easements and other applicable laws.

2. The approved permit shall be posted on the property in a location that is visible from the adjacent roadway until the building project is completed, or the 12-month period has expired, whichever comes first.
3. No building permit shall be issued if a building or structure, its appurtenances, or its uses require approval prior to construction from an agency of the State of Kansas if such approvals have not been given.

#### SECTION 16. CERTIFICATE OF OCCUPANCY

1. No land shall be occupied or used and no building hereafter erected, altered, extended, moved in, used or changed in use or occupied until a certificate of occupancy shall have been issued by the building inspector stating that the building or proposed use thereof complies with the provisions of this ordinance.
2. No non-conforming use shall be maintained, renewed, changed or extended without a certificate of occupancy having first been issued therefore by the building inspector.
3. All certificates of occupancy shall be applied for coincident with the application for a building permit. Said certificate of occupancy shall be issued within 10 days after the erection or alteration shall have been approved as complying with the provisions of this ordinance.
4. The building inspector shall maintain a record of all certificates and said record shall be on file with the city clerk and copies shall be furnished upon request by any person having a proprietary or tenancy interest or equitable interest in the building affected.
5. No building permit for excavation or the erection or alteration of any building shall be issued until an application has been made for a certificate of occupancy.
6. The Planning Commission will, as it sees fit, review Certificates of Occupancy. The Planning Commission shall have the authority to rescind a Certificate of



Occupancy if the building or its occupants are not complying to the provisions of this ordinance. If a Certificate of Occupancy is rescinded, the building owner shall have the right to appeal to the Planning Commission, or within a specific time frame agreed to by the Planning Commission, bring the building or use of such building back into compliance.

## SECTION 17. INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, morals, safety or general welfare. Wherever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or those imposing the highest standards shall govern.

## SECTION 18. OVERBROOK CITY PLANNING COMMISSION.

1. **COMMISSSION ESTABLISHMENT.** The Overbrook City Planning Commission is reestablished and shall be composed of five members, who shall be residents of the City.
2. **MEMBERSHIP, TERMS, INTEREST AND COMPENSATION.** The members of the Planning Commission shall be appointed by the Mayor with the consent of the City Council at the first regular meeting of the Governing Body in May of each year and take office at the next regular meeting of the Commission. All members shall be appointed for terms of three years each. In case of death, incapacity, resignation or disqualification of any member, appointment to such a vacancy on the Commission shall be made for the unexpired term of the member leaving the Commission. If any member has a conflict of interest in any matter coming before the Commission, he or she shall be disqualified to discuss or vote on the matter. The Governing Body may adopt rules and regulations providing for the removal of members of the Commission. Members of the Commission shall serve without compensation, but may be reimbursed for expenses actually incurred in the performance of their duties as deemed desirable by the Governing Body.
3. **MEETINGS, OFFICERS, AND RECORDS.** The members of the Planning Commission shall meet at such time and place as may be fixed in the Commission's bylaws. The Commission shall elect one member as chairperson and one member as vice-chairperson who shall serve one year and until their successors have been elected. A secretary shall also be elected who may or may not be a member of the Commission. Special meetings may be called at any time by the chairperson or in the chairperson's absence by the vice-chairperson. The Commission shall adopt bylaws for the transaction of business and hearing procedures which shall be subject to the approval of the Governing Body. A proper record of all the proceedings of the Commission shall be kept. The

Commission, from time to time, may establish subcommittees, advisory committees or technical committees to advise or assist in the activities of the Commission.

4. **POWERS AND DUTIES.** The Governing Body and Planning Commission shall have all the rights, powers and duties as authorized in Kansas Statutes Annotated 12-741, et seq., and amendments thereto, which are hereby incorporated by reference as part of this Ordinance and shall be given full force and effect as if the same had been fully set forth. The Commission is hereby authorized to make and cause to be made, adopted and maintained a comprehensive plan for the City within Osage County which in the opinion of the Commission forms the total community. The Commission shall also cause to be prepared, adopted and maintained zoning and subdivision regulations on all land within the jurisdiction designated by the Governing Body. The comprehensive plan and zoning and subdivision regulations are subject to final approval of the Governing Body by ordinance. Periodically, the Governing Body may request the Commission to undertake other assignments related to planning and land use regulations.
5. **BOARD OF ZONING APPEALS.** The Planning Commission is hereby designated to also serve as the City's Board of Zoning Appeals with all the powers and duties as provided for in K.S.A. 12-759. The Board shall adopt rules in the form of bylaws for its operation which shall include hearing procedures. Public records shall be kept for all official actions of the board which shall be maintained separately from those of the Commission. The Board shall keep minutes of its proceedings showing evidence presented, findings of fact, decisions and the vote upon each appeal. The Governing Body shall establish a scale of reasonable fees to be paid in advance by the appealing party.
6. **BUDGET.** The Governing Body shall approve a budget for the Planning Commission and make such allowances to the Commission as it deems proper, including funds for the employment of such employees or consultants as the Governing Body may authorize and provide, and shall add the same to the general budget. Prior to the time that moneys are available under the budget, the Governing Body may appropriate moneys for such purposes from the general fund. The Governing Body may enter into such contracts as it deems necessary and may receive and expend funds and moneys from the state or federal government or from any other source for such purposes.

## SECTION 19. AMENDMENTS

All amendments to this ordinance shall be in accordance with the provisions of the general city law applicable thereto. Any proposed amendment shall be submitted to the planning commission for report and recommendation prior to any action thereon by the city governing body.

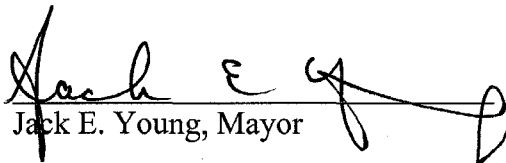
SECTION 20. VALIDITY

The invalidity of this section or any provision of this ordinance shall not violate any other section or provision thereof


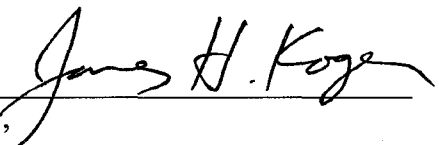
SECTION 21. VIOLATIONS AND PENALTIES

Any person, firm or corporation who shall violate, neglect or refuse to comply with, or who shall maintain, use or construct any building on premises in violation of any of the provisions of this ordinance shall, upon conviction, be fined a sum not less than \$10.00 and not more than \$100.00 for each offense, and each day's violation shall constitute a separate offense, and in addition to the above penalty such actions at law or suits in equity may be maintained by the City of Overbrook, Kansas, or any interested person or persons as may be authorized by law.

PASSED AND APPROVED THIS 9<sup>th</sup> DAY OF APRIL, 2008.

  
Jack E. Young, Mayor

ATTEST:  
(SEAL)

  
  
James H. Koger,  
City Clerk

AN ORDINANCE VACATING A PORTION OF FIRST STREET IN THE CITY OF OVERBROOK, KANSAS.

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

SECTION I. The following described street in the City of Overbrook, Osage County, Kansas:

That portion of First Street east of Maple St. to the railroad easement, all in the City of Overbrook, according to the recorded plat thereof.

Previously dedicated to public street use, is hereby vacated with attached property owner consent, pursuant to K.S.A. 15-427.

SECTION 2. This ordinance shall take effect and be in force from and after it's passage, approval, and publication as provided by law.

PASSED AND APPROVED THIS 13<sup>th</sup> DAY OF August, 2008.

Signed,

*Jack E. ...*  
Mayor

ATTEST:

*James H. Koyen*  
City Clerk

(SEAL)



ORDINANCE NO. 312

AN ORDINANCE VACATING A PORTION OF FIRST STREET IN THE CITY OF OVERBROOK, KANSAS.

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

SECTION I. The following described street in the City of Overbrook, Osage County, Kansas:

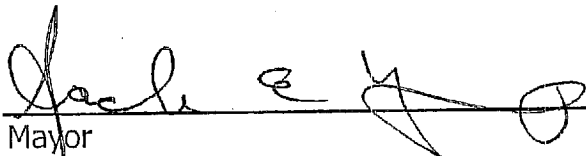
That portion of First Street east of Maple St. to the railroad easement, all in the City of Overbrook, according to the recorded plat thereof.

Previously dedicated to public street use, is hereby vacated with attached property owner consent, pursuant to K.S.A. 15-427..

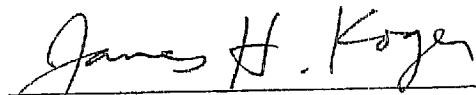
SECTION 2. This ordinance shall take effect and be in force from and after it's passage, approval, and publication as provided by law.

PASSED AND APPROVED THIS 13<sup>th</sup> DAY OF August, 2008.

Signed,

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

(SEAL)



ORIGINAL COMPARED WITH RECORD



STATE OF KANSAS, OSAGE COUNTY, SS  
LINDA L MASSEY, REGISTER OF DEEDS

Book: N42 Page: 681

Receipt #: 62729  
Pages Recorded: 2

Recording Fee: Other

*Linda L. Massey*

Date Recorded: 2/8/2016 8:05:00 AM

dh

Filed in Office..

City of Overbrook

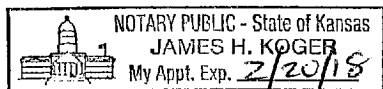
County of Osage

State of Kansas

I certify the attached Ordinance #312 to be a complete, exact and true copy of the original document. Certified this

2nd day of February, 2016.

James H. Koger Notary Public  
My commission expires 2/20/18



James H. Koger

NOTARY PUBLIC SEAL

N42-681  
CITY OF OVERBROOK  
401 MAPLE, P.O. BOX 288  
OVERBROOK, KANSAS 66524

1234567

ORDINANCE NO. 313

AN ORDINANCE RELATING TO THE SEWER SERVICE SYSTEM AND FIXING RATES AND CHARGES FOR THE USE THEREOF FROM THE SAME; AND REPEALING ORDINANCE NO. 309.

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

SECTION 1. THAT EFFECTIVE January 1<sup>st</sup>, 2009, there is hereby assigned and fixed, the following monthly rates and charges for the use of sewer services within the City of Overbrook, Kansas:

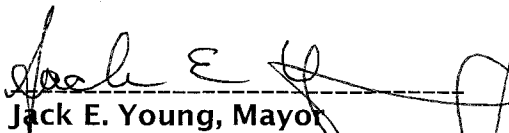
THERE SHALL BE a minimum charge of Twelve dollars and Fifteen cents (\$12.15) per month, or any portion thereof, for each single family dwelling, mobile home, apartment, multiple family dwelling, commercial and industrial building whose water consumption is less than 1,000 gallons per month.

THERE SHALL BE an additional charge of Three dollars and Sixty-Five cents (\$3.65) per month, or any portion thereof, for each additional 1,000 gallons of water used in excess of 1,000 gallons per month with no maximum charge.

SECTION 2. THAT Ordinance No. 309 in its entirety is hereby repealed.

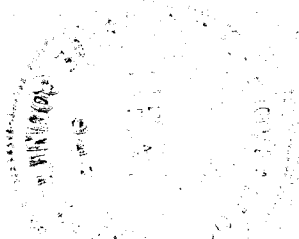
SECTION 3. THAT this Ordinance shall take effect and be kept in force from and after its passage, approval and publication in the Official city newspaper, as provided by law.

PASSED AND APPROVED THIS 10th DAY OF September, 2008

  
Jack E. Young, Mayor

ATTEST:  
(SEAL)

  
James H. Koger, City Clerk



**(Must be published and publication attached to budget)**



AN ORDINANCE ATTESTING TO AN INCREASE IN TAX REVENUES FOR BUDGET YEAR 2009 FOR THE City of Overbrook

WHEREAS City of Overbrook must continue to provide services to protect the health, safety, and welfare of the citizens of this community; and

WHEREAS, the cost of providing essential services to the citizens of this city continues to increase.

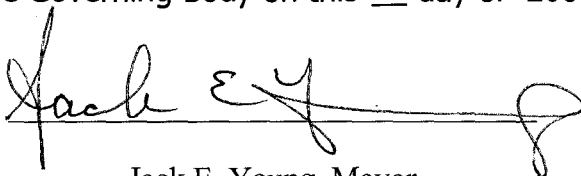
NOW THEREFORE, be it ordained by the Governing Body of the City of Overbrook:

Section One. In accordance with state law, the City of Overbrook has scheduled a public hearing and has prepared the proposed budget necessary to fund city services from January 1, 2009 until December 31, 2009.

Section Two. After careful public deliberations, the governing body has determined that in order to maintain the public services that are essential for the citizens of this city, it will be necessary to budget property tax revenues in an amount exceeding the levy in the 2008 budget.

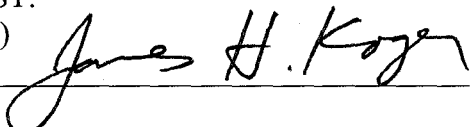
Section Three. This ordinance shall take effect after publication once in the official city newspaper.

Passed and approved by the Governing Body on this 10 day of 2008.

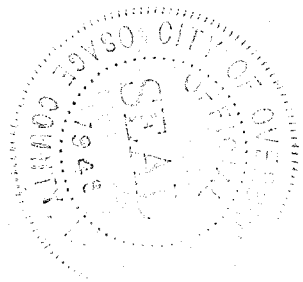


Jack E. Young, Mayor

ATTEST:  
(SEAL)



James H. Koger, City Clerk



ORDINANCE NO. 315

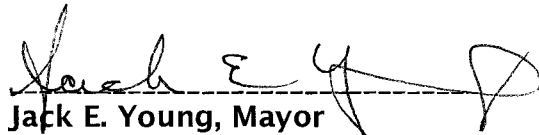
AN ORDINANCE REGARDING APPOINTMENTS MADE BY THE MAYOR OF OVERBROOK, KANSAS.

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

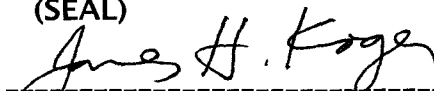
SECTION 1. From and after September 10, 2008, any appointment to any board, commission, advisory group or other body made by the mayor of Overbrook, KS, which is subject to approval of the governing body of the City of Overbrook, KS, must be acted upon by the governing body within 60 days of the appointment by the mayor or the appointment shall be deemed approved.

SECTION 2. EFFECTIVE DATE: This ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper as provided by law.

PASSED AND APPROVED THIS 10<sup>th</sup> DAY OF September, 2008.

  
Jack E. Young, Mayor

ATTEST:  
(SEAL)

  
James H. Koger, City Clerk



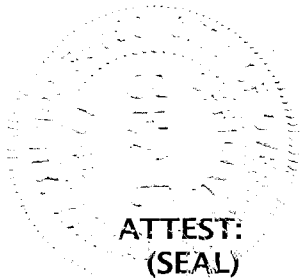
ORDINANCE NO. 316

AN ORDINANCE APPOINTING A BUILDING INSPECTOR

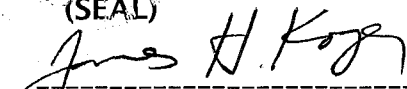
BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OVERBROOK, KANSAS:

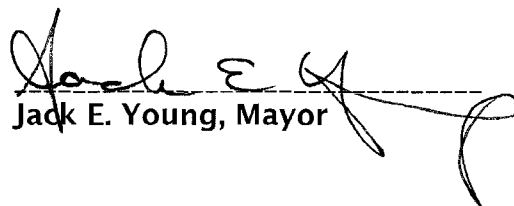
James H. Koger, City Clerk, is appointed the Building Inspector for the City of Overbrook, Kansas and is charged with the administration of the provisions of the Unsafe or Dangerous Structures and Abandoned Property for the State of Kansas and such other duties and responsibilities as the governing body assigns to him from time to time.

PASSED AND APPROVED THIS 8th DAY OF October, 2008.



ATTEST:  
(SEAL)

  
-----  
James H. Koger, City Clerk

  
-----  
Jack E. Young, Mayor

**ORDINANCE NO. 317**

AN ORDINANCE PERMITTING THE RIGHT OF EMINENT DOMAIN FOR THE PURPOSE OF MAINTENANCE OF SEWERS.

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

Section 1. Plaintiff is a city of the third class empowered by K.S.A. 15-101 and K.S. A.26-201 to bring this action.

Section 2. Pursuant to K.S.A. 12-631v, the plaintiff may acquire by the exercise of the right of eminent domain, easements or rights of way necessary for the construction and maintenance of sewers.

Section 3. That in order for the plaintiff to carry out its lawful powers and duties to maintain the city sewer, it is necessary for it to acquire, under K.S.A. 26-501, et seq., the following easements to or upon lands, or interests or right therein, and other property rights in Osage County, by the exercise of the right of eminent domain, perpetual easements with the right to use, operate, inspect, repair, maintain, replace and remove sewer pipelines and appurtenances thereto over and across the following land owned by Grantors in Osage county, Kansas:

**Lot 21, Block A, in Frieruble Addition No. 2 to the city of Overbrook, according to the recorded Plat thereof,**

**Lot 22, Block A, in Frieruble Addition No. 2 to the city of Overbrook, according to the recorded Plat thereof,**


**Lot 23, Block A, in Frieruble Addition No. 2 to the city of Overbrook, according to the recorded Plat thereof, and**


**Lot 24, Block A, in Frieruble Addition No. 2 to the city of Overbrook, according to the recorded Plat thereof.**

Together with the right of ingress and egress over Grantor's adjacent lands for the purposes for which the above-mentioned rights are granted. The easement required shall be 20' in width, the center line thereof to be located along the center of the pipeline as currently laid in place.

Passed by the Governing Body this 8th day of October 2008.

ATTEST:

  
City Clerk

  
Mayor

**ORDINANCE NO. 318**

**AN ORDINANCE AUTHORIZING THE EXECUTION OF A SECOND AMENDMENT TO THE LOAN AGREEMENT BETWEEN THE CITY OF OVERBROOK, KANSAS AND THE STATE OF KANSAS, ACTING BY AND THROUGH THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT FOR THE PURPOSE OF OBTAINING A LOAN FROM THE KANSAS WATER POLLUTION CONTROL REVOLVING FUND FOR THE PURPOSE OF FINANCING A WASTEWATER TREATMENT PROJECT; ESTABLISHING A DEDICATED SOURCE OF REVENUE FOR REPAYMENT OF SUCH LOAN; AUTHORIZING AND APPROVING CERTAIN DOCUMENTS IN CONNECTION THEREWITH; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH THE SECOND AMENDMENT TO THE LOAN AGREEMENT.**

**WHEREAS**, the Federal Water Quality Act of 1987 (the "Federal Act") established revolving fund program for public wastewater treatment systems to assist in financing the costs of infrastructure needed to achieve or maintain compliance with the Federal Act and to protect the public health and authorized the Environmental Protection Agency (the "EPA") to administer a revolving loan program operated by the individual states; and

**WHEREAS**, to fund the state revolving fund program, the EPA will make annual capitalization grants to the states, on the condition that each state provide a state match for such state's revolving fund; and

**WHEREAS**, by passage of the Kansas Water Pollution Control Revolving Fund Act, K.S.A. 65-3321 through 65-3329, inclusive (the "Loan Act"), the State of Kansas (the "State") has established the Kansas Water Pollution Control Revolving Fund (the "Revolving Fund") for purposes of the Federal Act; and

**WHEREAS**, under the Loan Act, the Secretary of the Kansas Department of Health and Environment ("KDHE") is given the responsibility for administration and management of the Revolving Fund; and

**WHEREAS**, the Kansas Development Finance Authority (the "Authority") and KDHE have entered into a Pledge Agreement (the "Pledge Agreement") pursuant to which KDHE agrees to enter into Loan Agreements with Municipalities for public wastewater treatment projects (the "Projects") and to pledge the Loan Repayments (as defined in the Pledge Agreement) received pursuant to such Loan Agreements to the Authority; and

**WHEREAS**, the Authority is authorized under K.S.A. 74-8905(a) and the Loan Act to issue revenue bonds (the "Bonds") for the purpose of providing funds to implement the State's requirements under the Federal Act and to loan the same, together with available funds from the EPA capitalization grants, to Municipalities within the State for the payment of Project Costs (as said terms are defined in the Loan Act); and

**WHEREAS**, the City of Overbrook, Kansas (the "Municipality") is a municipality as said term is defined in the Loan Act which operates a wastewater collection, pumping, and treatment system (the "System"); and

**WHEREAS**, the System is a public Wastewater Treatment Works, as said term is defined in the Loan Act; and

**WHEREAS**, the Municipality has, pursuant to the Loan Act, submitted an Application to KDHE to obtain an amendment to the loan from the Revolving Fund to finance the costs of improvements to its System consisting of the following:

The project consists of improvements and rehabilitation to the City' wastewater collection and treatment facilities. It includes rehabilitation and/or replacement of sewer lines and manholes, de-sludging of the lagoon, piping and slope protection (the "Project"); and

**WHEREAS**, the Municipality has taken all steps necessary and has complied with the provisions of the Loan Act and the provisions of K.A.R. 28-16-110 to 28-16-138 (the "Regulations") applicable thereto necessary to qualify for an amendment to the loan; and

**WHEREAS**, KDHE has informed the Municipality that it has been approved for a loan in amount of not to exceed One Million Sixty Thousand Six Hundred Sixty Dollars [\$1,060,660] (the "Loan") in order to finance the Project; and

**WHEREAS**, the governing body of the Municipality hereby finds and determines that it is necessary and desirable to accept the Second Amendment to the Loan and to enter into a Second Amendment to the loan agreement and certain other documents relating thereto, and to take certain actions required in order to implement the Second Amendment to the Loan Agreement.

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

**Section 1. Authorization of the Second Amendment to the Loan Agreement.** The Municipality is hereby authorized to accept the Loan and to enter into a certain Second Amendment to the Loan Agreement, with an effective date of September 30, 2008, with the State of Kansas acting by and through the Kansas Department of Health and Environment (the Second Amendment to the "Loan Agreement") to finance the Project Costs (as defined in the Second Amendment to the Loan Agreement). The Mayor and Clerk are hereby authorized to execute the Second Amendment to the Loan Agreement in substantially the form presented to the governing body this date, with such changes or modifications thereto as may be approved by the Mayor and the City Attorney, the Mayor's execution of the Second Amendment to the Loan Agreement being conclusive evidence of such approval.

**Section 2. Establishment of Dedicated Source of Revenue for Repayment of Loan.** Pursuant to the Loan Act, the Municipality hereby establishes a dedicated source of revenue for repayment of the Loan. In accordance therewith, the Municipality shall impose and collect such rates, fees and charges for the use and services furnished by or through the System, including all improvements and additions thereto hereafter constructed or acquired by the Municipality as will provide System Revenues or levy ad valorem taxes without limitation as to rate or amount upon all the taxable tangible property, real or personal, within the territorial limits of the Municipality to produce amounts which are sufficient to (a) pay the cost of the operation and maintenance of the System, (b) pay the principal of and interest on the Loan as and when the same become due, and (c) pay all other amounts due at any time under the Loan Agreement; provided, however, no lien or other security interest is granted by the Municipality to KDHE on the System Revenues under this Agreement. In the event that the System Revenues are insufficient to meet the obligations under the Loan and the Loan Agreement, the Municipality shall levy ad valorem taxes without limitation as to rate or amount upon all the taxable tangible property, real or personal, within the territorial limits of the Municipality to produce the amounts necessary for the prompt payment of the obligations under the Loan and Loan Agreement.

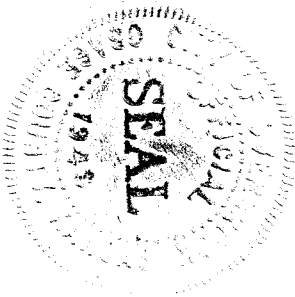
In accordance with the Loan Act, the obligations under the Loan and the Second Amendment to the Loan Agreement shall not be included within any limitation on the bonded indebtedness of the Municipality.

**Section 3. Further Authority.** The Mayor, Clerk and other City officials are hereby further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of the Ordinance, and to make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

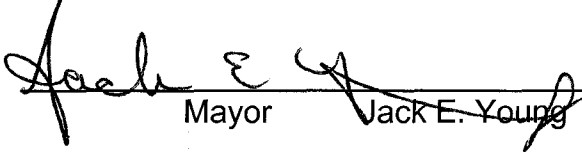
**Section 4. Governing Law.** The Ordinance and the Second Amendment to the Loan Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Kansas.

**Section 5. Effective Date.** This Ordinance shall take effect and be in full force from and after its passage by the governing body of the City and publication in the official City newspaper.

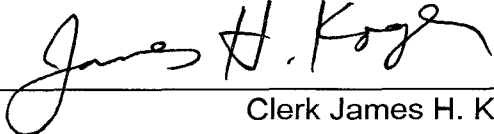
**PASSED** by the governing body of the City on November 12, 2008 and signed and **APPROVED** by the Mayor.



(SEAL)

  
\_\_\_\_\_  
Mayor Jack E. Young

ATTEST:

  
\_\_\_\_\_  
Clerk James H. Koger

[APPROVED AS TO FORM ONLY.]

  
\_\_\_\_\_  
City Attorney Michael Coffman



ORDINANCE NO. 324

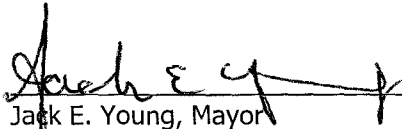
AN ORDINANCE REGULATING TRAFFIC WITHIN THE CORPORATE LIMITS OF THE CITY OF OVERBROOK, KANSAS: INCORPORATING BY REFERENCE THE "STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES, "EDITION OF 2008"; PROVIDING CERTAIN PENALTIES AND REPEALING ORDINANCE NO. 302. BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OVERBROOK, KANSAS:

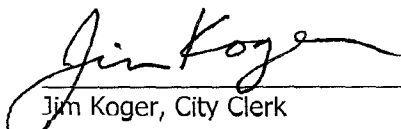
SECTION 1. INCORPORATING STANDARD TRAFFIC ORDINANCE.

There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Overbrook, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities", Edition of 2008, prepared and published in book form by the league of Kansas Municipalities, Topeka, Kansas. No fewer than three (3) copies of said Standard Traffic Ordinance shall be marked or stamped "Official Copy as Adopted by Ordinance No. 324, and to which shall be attached a copy of this Ordinance, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. The Police Department, Municipal Judge, and all administrative departments of the city charged with the enforcement of the ordinance shall be supplied, at the cost of the City, such number of official copies of such Standard Traffic Ordinance similarly marked, as may be deemed expedient.

SECTION 2. EFFECTIVE DATE: This ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper as provided by law.

PASSED AND APPROVED THIS 14<sup>th</sup> DAY OF January 2009.

  
\_\_\_\_\_  
Jack E. Young, Mayor

  
\_\_\_\_\_  
Jim Koger, City Clerk



ORDINANCE NO 325

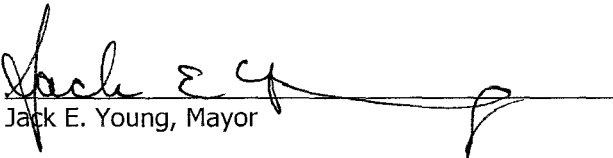
AN ORDINANCE REGULATING PUBLIC OFFENSES WITHIN THE CORPORATE LIMITS OF THE CITY OF OVERBROOK, KANSAS: INCORPORATING BY REFERENCE THE "UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES", EDITION OF 2008 REPEALING ORDINANCE NO 303  
BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OVERBROOK, KANSAS:

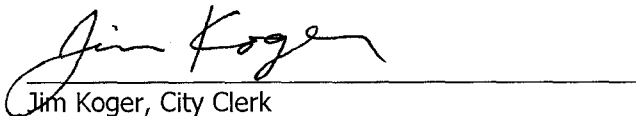
SECTION 1. INCORPORATING UNIFORM PUBLIC OFFENSE CODE.

There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Overbrook, Kansas, that certain Code known as the "Uniform Public Offense Code", Edition of 2007, prepared and published in book form by the league of Kansas Municipalities, Topeka, Kansas. No fewer than three (3) copies of said Uniform Public Offense Code shall be marked or stamped "Official Copy As Adopted by Ordinance No. 325, and to which shall be attached a copy of this ordinance, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours.

SECTION 2. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper as provided by law.

PASSED AND APPROVED THIS 14<sup>th</sup> DAY OF January 2009.

  
\_\_\_\_\_  
Jack E. Young, Mayor

  
\_\_\_\_\_  
Jim Koger, City Clerk



## Recreation Commission

K.S.A. 12-1925(d) "Upon approval of the proposition by a majority of those voting on it at the election, the governing body of the city, by appropriate resolution or ordinance, shall provide for the establishment, maintenance and conduct of such recreation system as they deem advisable and practicable and shall appoint a recreation commission as provided by K.S.A. 12-1926 to be vested with the powers, duties and obligations necessary for the conduct of such recreation system."

Ordinance No. 326

Section 1: Creation of Recreation Commission. There is hereby created a Recreation Commission for the city of Overbrook, Kansas, for the purpose of maintaining and conducting recreation facilities and programs within the city. Such facilities shall initially include the city pool, the city lake, the city playgrounds and athletic fields and related buildings and facilities. The Recreation Commission shall be organized and governed pursuant to K.S.A. 12-1926 through K.S.A. 12-1935.

The recreation commission shall consist of five members to be appointed as follows:

The governing body of the city shall appoint four persons who are residents of the taxing district to serve as members of the recreation commission, the first appointee to serve for four years, the second for three years, the third for two years, and the fourth for one year, and the fifth member who also shall serve for four years shall be appointed by the four appointee members of such commission and all of such persons shall constitute the recreation commission. Thereafter, the

members of the commission shall be selected in the same manner as the member such person is succeeding and the term of office of each shall be four years. Any member of the recreation commission may be removed from the commission, by the appointing authority, for any cause which would justify removal of an appointive officer of the city. Except for members first appointed to the commission, all commissioners not filling a vacancy shall hold office for a term of four years and until their successors are appointed and qualified. Whenever a vacancy occurs in the membership of the commission, a successor shall be selected to fill such vacancy in the same manner as and for the unexpired term of the member such person is succeeding. The commission shall elect a chairperson and secretary from their membership. The commissioners are hereby empowered to administer in all respects the business and affairs of the recreation system. The treasurer of the city or school district to which is certified the budget of the recreation commission shall serve as ex officio treasurer of the recreation commission. Such treasurer shall keep an accurate record of all money and property received and disbursed and shall make a report thereof monthly to the commission, or as often as the commission requires. Members of the commission and the ex officio treasurer of the commission shall serve without compensation.

**Section 2: Annual budget; hearing; notice; tax levy; increase in levy, subject to protest; annual audit, when required**

The recreation commission shall prepare an annual budget for the operation of the recreation system. Prior to the certification of its budget to the city, the recreation commission shall meet for the purpose of answering and hearing objections of taxpayers relating to the proposed budget and for the purpose of considering amendments to such proposed budget. The recreation commission shall give at least 10 days' notice of the time and place of the meeting by publication in a weekly or daily newspaper having a general circulation in the taxing district. Such notice shall include the proposed budget and shall set out all essential items in the budget except such groupings as designated by the director of accounts and reports on a special publication form prescribed by the director

of accounts and reports and furnished with the regular budget form. The public hearing required to be held herein shall be held not less than 10 days prior to the date on which the recreation commission is required to certify its budget to the city or school district. After such hearing the budget shall be adopted or amended and adopted by the recreation commission. In order to provide funds to carry out the provisions of this act and to pay a portion of the principal and interest on bonds issued pursuant to K.S.A. 12-1774, and amendments thereto, the recreation commission shall annually, not later than August 1 of any year, certify its budget to such city which shall levy a tax sufficient to raise the amount required by such budget on all the taxable tangible property within the taxing district. Each year a copy of the budget adopted by the recreation commission shall be filed with the city clerk. A copy of such budget also shall be filed with the county clerk of the county in which the recreation system is located. The city shall not be required to levy a tax in excess of the maximum tax levy set by the city or school district by current resolution. In the case of a new recreation commission established under the provisions of this act, such levy shall not be required to exceed one mill. Whenever the recreation commission determines that the tax currently being levied for the commission, as previously established by the city, is insufficient to operate the recreation system and the commission desires to increase the mill levy above the current levy, the commission shall request that the city authorize an increase by adopting a resolution declaring it necessary to increase the annual levy. The city may authorize the increase by resolution, but such increase shall not exceed one mill per year. The maximum annual mill levy for the recreation commission general fund shall not exceed a total of four mills.

(b) Any resolution adopted under subsection (a) shall state the total amount of the tax to be levied for the recreation system and shall be published once each week for two consecutive weeks in the official newspaper of the city. Whereupon, such annual levy in an amount not to exceed the amount stated in the resolution may be made for the ensuing budget year and each successive budget year unless a petition requesting an election upon the proposition to increase the tax levy in excess of the current tax levy, signed by at least 5% of the qualified voters of the taxing district, is filed with the county election officer

within 30 days following the date of the last publication of the resolution. In the event a valid petition is filed, no such increased levy shall be made without such proposition having been submitted to and having been approved by a majority of the voters of taxing district voting at an election called and held thereon. All such elections shall be called and held in the manner provided by the general bond law, and the cost of the election shall be borne by the recreation commission. Such taxes shall be levied and collected in like manner as other taxes, which levy the city shall certify, on or before August 25 of each year, to the county clerk who is hereby authorized and required to place the same on the tax roll of the county to be collected by the county treasurer and paid over by the county treasurer to the ex officio treasurer of the recreation commission.

(c) The tax levy provided in this section shall not be considered a levy of such city under any of the statutes of this state, but shall be in addition to all other levies authorized by law.

(d)(1) At any time after the making of the first tax levy pursuant to this act, the amount of such tax levy may be reduced by a majority of the voters of the taxing district voting at an election called pursuant to a petition and conducted in the same manner as that prescribed by subsection (b). The authority of any recreation commission in existence on the effective date of this act or any recreation commission established under the provisions of this act to operate and conduct its activities may be revoked in any year following the third year of its operation by a majority of the voters of the taxing district voting at an election called pursuant to a petition and conducted in the same manner as that prescribed by subsection (b). If the petition submitted is for the purpose of reducing the mill levy, it shall state the mill levy reduction desired. Upon revocation, all property and money belonging to the recreation commission shall become the property of the taxing authority levying the tax for the commission, and the recreation commission shall be dissolved. In the event the authority of a recreation commission is revoked pursuant to this subsection, the taxing authority may continue to levy a tax in the manner prescribed by the petition

language for the purpose of paying any outstanding obligations of the recreation commission which exist on the date such authority is revoked. The authority to levy a tax for this purpose shall continue only as long as such outstanding obligations exist.

(2) If the recreation district whose authority is revoked owns any real property at the time of such revocation, title to such real property shall revert to the taxing authority.

(e) All financial records of the recreation commission shall be audited as provided in K.S.A. 75-1122, and amendments thereto, and a copy of such annual audit report shall be filed with the governing body of the city. A copy of such audit also shall be filed with the county clerk of the county in which the recreation system is located. The cost of each audit shall be borne by the recreation commission

### Section 3: Powers and Duties of the Recreation Commission.

The recreation commission shall have the following powers and duties:

- (a) Make and adopt rules and regulations for the operation of the recreation system;
- (b) conduct the activities of the recreation 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 owners;
- (c) receive any gift or donation from any source;
- (d) receive, accept and administer any money appropriated or granted to it by the state or federal government or any agency thereof;
- (e) purchase insurance. The city to which the recreation commission certifies its budget shall levy an annual tax upon all taxable tangible property within the taxing district in an amount necessary to pay for insurance purchased for those purposes authorized by K.S.A. 75-6111, and amendments thereto, and to pay a portion of the principal and interest on bonds issued pursuant to K.S.A. 12-1774, and amendments thereto, except that no levy shall be made under this subsection which, when coupled with any levy made pursuant to subsection (j), is in excess of one mill without the approval of the city or school district.

Taxes levied pursuant to this subsection shall be in addition to all other taxes authorized or limited by K.S.A. 12-1927, and amendments thereto, or any other provisions of law;

(f) sue and be sued;

(g) enter contracts;

(h) enter lease agreements for real and personal property. The term of any such lease shall not exceed 10 years. Any such lease agreement shall be subject to the approval of the city or school district to which the recreation commission certifies its budget;

(i) employ a superintendent of recreation and any other employees which may be necessary for proper operation of the recreation system;

(j) create and establish employee benefits contribution funds for the purpose of paying the employer's share of any employee benefits, exclusive of any salaries, wages or other direct payments to such employees, as may be prescribed in the resolution creating such funds. The recreation commission may receive and place in such funds any moneys from any source whatsoever which may be lawfully utilized for the purposes stated in the resolution creating such funds, including the proceeds of tax levies authorized by law for such purposes. The city to which is certified the budget of any recreation commission which has established employee benefits contribution funds pursuant to this subsection shall levy an annual tax upon all taxable tangible property within the taxing district in an amount determined by the recreation commission to be necessary for the purposes for which such funds were created and to pay a portion of the principal and interest on bonds issued pursuant to K.S.A. 12-1774, and amendments thereto, except that no levy shall be made under this subsection which, when coupled with any levy made pursuant to subsection (e), is in excess of one mill without the approval of the city. Taxes levied pursuant to this subsection shall be in addition to all other taxes authorized or limited by K.S.A. 12-1927, and amendments thereto, or any other provisions of law. For the purposes of this subsection, employee benefits shall include social security as provided by subsection (c) of K.S.A. 40-2305, and amendments thereto, workers' compensation as provided by K.S.A. 44-505c, and amendments thereto, unemployment compensation as provided by K.S.A. 44-710a, and amendments thereto, health insurance and retirement benefits;

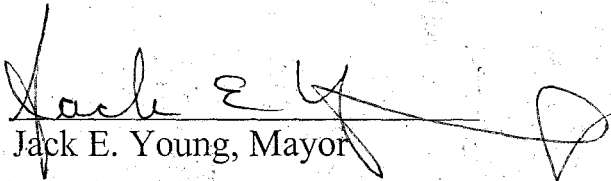


- (k) acquire title to personal property by purchase, bequest, gift or other donation and acquire title to real property by devise, gift or other donation. Whenever property owned by a recreation commission is sold, the proceeds shall be used for recreation purposes;
- (l) make improvements for recreation system purposes; and
- (m) perform any other acts necessary to carry out

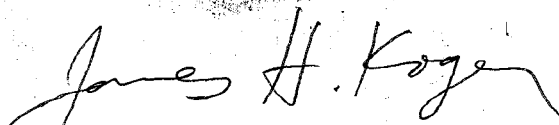
SECTION 4. EFFECTIVE DATE: This ordinance shall take effect and be in place from and after its approval and publication in the official city newspaper as provided by law.

PASSED AND APPROVED THIS 11<sup>th</sup> DAY OF March, 2009.

Signed:

  
\_\_\_\_\_  
Jack E. Young, Mayor

Attest:

  
\_\_\_\_\_  
James H. Koger, City Clerk

ORDINANCE NO. 331

AN ORDINANCE RELATING TO THE RECREATION COMMISSION FOR THE CITY OF OVERBROOK; AMENDS SECTION 1 OF ORDINANCE NO. 326.

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

Section 1 be amended in regards to the five member appointments to read:

The governing body of the city shall appoint three persons who are residents of the taxing district to serve as members of the recreation commission, the first appointee to serve for four years, the second for three years, and the third for two years. The fourth member, (with a term of one year), and the fifth member, (with a term of four years) shall be appointed by the three appointee members of such commission and all of such persons shall constitute the recreation commission.

The rest of the Ordinance remains unchanged.

This Ordinance shall be in effect from and after its passage, approval, and publication in the official city newspaper.

Passed and Approved this 8th Day of July, 2009

/s/ Mayor Don Schultz

/s/ City Clerk Jim Koger

ORDINANCE NUMBER 332

AN ORDINANCE ATTESTING TO AN INCREASE IN TAX REVENUES FOR BUDGET YEAR 2010 FOR THE City of Overbrook

WHEREAS, the City of Overbrook must continue to provide services to protect the health, safety, and welfare of the citizens of this community; and

WHEREAS, the cost of providing essential services to the citizens of this city continues to increase.

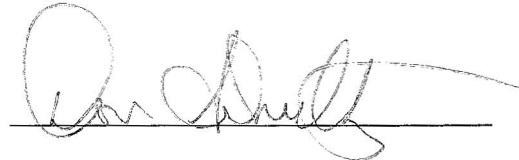
NOW THEREFORE, be it ordained by the Governing Body of the City of Overbrook:

Section One. In accordance with state law, the City of Overbrook has scheduled a public hearing and has prepared the proposed budget necessary to fund city services from January 1, 2010 until December 31, 2010.

Section Two. After careful public deliberations, the governing body has determined that in order to maintain the public services that are essential for the citizens of this city, it will be necessary to budget property tax revenues in an amount exceeding the levy in the 2009 budget.

Section Three. This ordinance shall take effect after publication once in the official city newspaper.

Passed and approved by the Governing Body on this 24th day of July, 2009.



Don Schultz Mayor

ATTEST:



Jim Koger City Clerk

(SEAL)

(Must be published and publication attached to budget)



AN ORDINANCE REGARDING REQUEST FOR RECORDS AND FEES TO BE CHARGED TO PERSONS ACCESSING AND/OR COPYING OPEN PUBLIC RECORDS.

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

SECTION 1. Policy.

(a) It is hereby declared to be the policy of the city that all public records which are made, maintained or kept by or are in the possession of the city, its officers and employees, shall be open for public inspection as provided by, and subject to the restrictions imposed by, the Kansas Open Records Act (KORA).

(b) Any person, upon request, shall have access to such open public records for the purpose of inspecting, abstracting or copying such records while they are in the possession, custody and control of the appointed or designated records custodian thereof, or his or her designated representative.

SECTION 2. Records Custodians. The records custodian(s) appointed and designated pursuant to this ordinance shall preserve and protect all public records from damage, disorganization and theft and shall assist, in a timely and efficient manner, any person making request for access to any open public record.

SECTION 3. Public Request for Access. The city office keeping and maintaining open public records shall have established office hours during which any person may make a request for access to an open public record. Such hours shall be no fewer than the hours each business day the office is regularly open to the public.

SECTION 4. Facilities for Public Inspection. The city office keeping and maintaining open public records shall provide suitable facilities to be used by any person desiring to inspect and/or copy an open public record. The office of the city clerk, being the principal record keeper of the city, shall be used as the principal office for providing access to an providing copies of open records to the maximum extent practicable. Requesters of records shall be referred to the office of the city clerk.

SECTION 5. Procedures for Inspection. Any person requesting access to an open public record for purposes of inspecting or copying such record, or obtaining a copy thereof, shall abide by the procedures adopted by the governing body for record inspection and copying, including those procedures established by records custodians as authorized by the governing body. Such procedures shall be posted in each city office keeping and maintaining open public records.

SECTION 6. Appointment of Official Custodians. The following city officers are hereby appointed as official custodians for purposes of KORA and are hereby charged with responsibility for compliance with that Act with respect to the hereinafter listed public records:

- (a) City Clerk - All public records kept and maintained in the city clerk's office and all other public records not provided for elsewhere in this section.

- (b) Chief of Police - All public records not on file in the office of the city clerk and kept and maintained in the city police department.
- (c) Fire Chief - All public records not on file in the office of the city clerk and kept and maintained in the city fire department.
- (d) City Attorney - All public records not on file in the office of the city clerk and kept and maintained in the city attorney's office.
- (e) Clerk of the Municipal Court - All public records not on file in the office of the city clerk and kept and maintained in the municipal court.

Section 7. Duties of Custodians. All city officers and employees appointed or designated as records custodians under this ordinance shall: protect public records from damage and disorganization; prevent excessive disruption of the essential functions of the city; provide assistance and information upon request; insure efficient and timely action and response to all applications for inspection of public records; and shall carry out the procedures adopted by this city for inspecting and copying open public records.

Section 8. Requests to Be Directed to Custodians.

(a) All members of the public, in seeking access to, or copies of, a public record in accordance with the provisions of KORA, shall address their requests to the custodian charged with responsibility for the maintenance of the record sought to be inspected or copied.

(b) Whenever any city officer or employee appointed or designated as a custodian under this ordinance is presented with a request for access to, or copy of, a public record which record the custodian does not have in his or her possession and for which he or she has not been given responsibility to keep and maintain, the custodian shall so advise the person requesting the record. Further, the person making the request shall be informed as to which custodian the request should be addressed to, if such is known by the custodian receiving the request.

Section 9. Fee Administration. The city clerk is hereby authorized to provide the clerk's office, and the office of each records custodian, with sufficient cash to enable the making of change for record fee purposes. Each custodian shall transmit a copy of all request for records forms completed as to the amount of fee charged and all record fee monies collected to the city clerk on a daily basis.

Section 10. Inspection fee.

(a) Where a request has been made for inspection of any open public record which is readily available to the records custodian, there shall be no inspection fee charged to the requester.

(b) In all cases not covered by subsection (a) of this section, a record inspection fee shall be charged at the rate of \$20.00 per hour per employee engaged in the record search to be charged at quarter-hour increments with a minimum charge of \$5.00 to be charged for each such request.

Section 11. Request for Records Fees.

(a) A copying fee of 25 cents per page shall be charged for photocopying public records, such fee to cover the cost of labor, materials and equipment.

(b) Any requests for copying any public records which cannot be reproduced by the city's photocopying equipment, the requester shall be charged the actual cost to the city, including staff time, in reproducing such records.

(c) A mail charge fee may be assessed in addition to the copy charge when mail service is requested. A fee of 25 cents per page shall be charged to cover mailing charges. If air express delivery is requested, you must provide a prepaid envelope or an account number for such delivery.

(d) A fax charge of 65 cents per page includes those services required in copying a record, in addition to domestic fax transmission costs. Requests for faxed records are limited to 15 pages including the cover page. No additional copy charge is assessed.

Section 13. Prepayment of Fees.


(a) A records custodian may demand prepayment of the fees established by this ordinance whenever he or she believes this to be in the best interest of the city. The prepayment amount shall be an estimate of the inspection and/or copying charges accrued in fulfilling the record request. Any overage or underage in the prepayment shall be settled prior to inspection of the requested record or delivery of the requested copies.

(b) Prepayment of inspection and/or copying fees shall be required whenever, in the best estimate of the records custodian, such fees are estimated to exceed \$ 20.00.

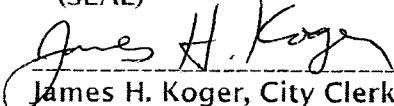
(c) Where prepayment has been demanded by the records custodian, no record shall be made available to the requester until such prepayment has been made.

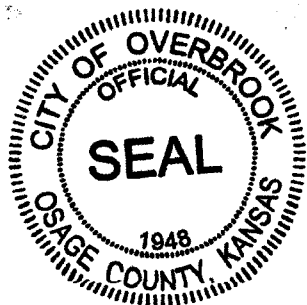
Section 14. Effective Date. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper as provided.

PASSED AND APPROVED THIS 15<sup>th</sup> DAY OF September, 2009.

  
Don Schultz, Mayor

ATTEST:  
(SEAL)

  
James H. Koger, City Clerk



AN ORDINANCE REGULATING TRAFFIC WITHIN THE CORPORATE LIMITS OF THE CITY OF OVERBROOK, KANSAS: INCORPORATING BY REFERENCE THE "STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES, "EDITION OF 2009"; PROVIDING CERTAIN PENALTIES AND REPEALING ORDINANCE NO. 324.

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

**SECTION 1. INCORPORATING STANDARD TRAFFIC ORDINANCE.**

There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Overbrook, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities", Edition of 2009, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas. No fewer than three (3) copies of said Standard Traffic Ordinance shall be marked or stamped "Official Copy as Adopted by Ordinance No. 335, and to which shall be attached a copy of this Ordinance, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. The Police Department, Municipal Judge, and all administrative departments of the city charged with the enforcement of the ordinance shall be supplied, at the cost of the City, such number of official copies of such Standard Traffic Ordinance similarly marked, as may be deemed expedient.


**SECTION 2. EFFECTIVE DATE:** This ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper as provided by law.

PASSED AND APPROVED THIS 15<sup>th</sup> DAY OF September, 2009

  
Don Schultz, Mayor



ATTEST:  
(SEAL)

  
James H. Koger, City Clerk



ORDINANCE NO 336

AN ORDINANCE REGULATING PUBLIC OFFENSES WITHIN THE CORPORATE LIMITS OF THE CITY OF OVERBROOK, KANSAS: INCORPORATING BY REFERENCE THE "UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES", EDITION OF 2009 REPEALING ORDINANCE NO 325.

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

SECTION 1. INCORPORATING UNIFORM PUBLIC OFFENSE CODE.

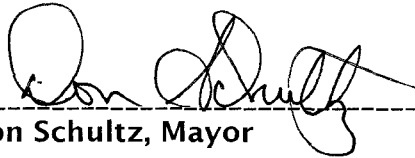
There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Overbrook, Kansas, that certain Code known as the "Uniform Public Offense Code", Edition of 2009, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas. No fewer than three (3) copies of said Uniform Public Offense Code shall be marked or stamped "Official Copy As Adopted by Ordinance No. 336, and to which shall be attached a copy of this ordinance, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours.

SECTION 2. EFFECTIVE DATE. This ordinance shall take

effect and be in force from and after its passage, approval and publication in the official city newspaper as provided by law.

PASSED AND APPROVED THIS 15<sup>th</sup> DAY OF September, 2009.



  
Don Schultz, Mayor

ATTEST:

(SEAL)

  
James H. Koger, City Clerk

**ORDINANCE NO. 337**

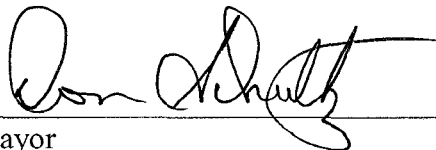
AN ORDINANCE ESTABLISHING THE TIME AND PLACE OF MUNICIPAL COURT.

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

Section 1. Pursuant to K.S.A. 12-4109, municipal court shall be held on the second Thursday of each month at 6:30 p.m. at City Hall, Overbrook, Kansas, beginning December 10, 2009.

Section 2. This ordinance shall take effect upon publication in the official city newspaper.

Passed by the Governing Body this 11<sup>th</sup> day of November 2009.



\_\_\_\_\_  
Mayor



*James H. Koger City Clerk*

ORDINANCE NO. 345

**AN ORDINANCE DESIGNATING AND ESTABLISHING CERTAIN STREETS AS MAIN TRAFFICWAYS WITHIN THE CITY OF OVERBROOK, KANSAS, PURSUANT TO K.S.A. 12-685 ET SEQ.**

**Be It Ordained by the Governing Body of the City of Overbrook, Kansas, that:**

**Section 1.** That:

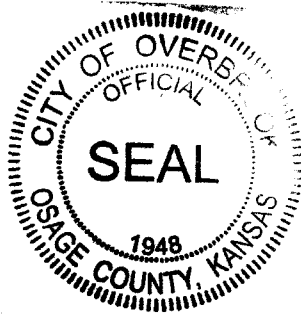
10<sup>th</sup> Street from Maple Street to the West City limits;  
9<sup>th</sup> Street from Maple Street to the West City limits;  
Oak Street from 9<sup>th</sup> Street to 10<sup>th</sup> Street;  
7<sup>th</sup> Street from Cedar Street to Locust Street;  
7<sup>th</sup> Street from Western Heights Drive to West City limits;  
6<sup>th</sup> Street from Cedar Street to Locust Street;  
5<sup>th</sup> Street from Western Heights Drive to City Park entrance;  
4<sup>th</sup> Street from Western Heights Drive to City Park entrance;  
West Santa Fe Trail from Western Heights Drive to West City limits;  
Market Street from Oak Street to Walnut Street;  
2<sup>nd</sup> Street from Oak Street to Walnut Street;  
2<sup>nd</sup> Street from Surrey Street to Devon Street;  
1<sup>st</sup> Street from Maple Street to West City limits;  
1<sup>st</sup> Street from Cedar Street to East City limits;  
Maple Street from U.S. Highway 56 to South City limits;  
Walnut Street from Market Street to 2<sup>nd</sup> Street;  
Cedar Street from 1<sup>st</sup> Street to U.S. Highway 56;  
Ash Street from 1<sup>st</sup> Street to 5<sup>th</sup> Street;  
Oak Street from 1<sup>st</sup> Street to 2<sup>nd</sup> Street;  
Oak Street from 6<sup>th</sup> Street to 7<sup>th</sup> Street;  
Locust Street from Market Street to U.S. Highway 56;  
Western Heights Drive from 4<sup>th</sup> Street to U.S. Highway 56;  
Devon Street from South City limits to West Santa Fe Trail; and  
Surrey Street from South City limits to West Santa Fe Trail,

(collectively, the "Streets"), the primary function of said Streets being the movement of through traffic between areas of concentrated activity within the City or between such areas within the City and traffic facilities outside the City performing the function of major trafficways, are hereby designated and established as main trafficways, pursuant to K.S.A. 12-685 *et seq.*

**Section 2.** This Ordinance shall be effective upon publication in the official city newspaper

**Passed** on this 14th day of October, 2009.

(SEAL)



ATTEST:

CITY OF OVERBROOK, KANSAS

A handwritten signature in black ink, appearing to read "Don Schultz", written over a horizontal line.

Don Schultz, Mayor

A handwritten signature in black ink, appearing to read "James H. Koger", written over a horizontal line.

James H. Koger, City Clerk

NOV 16 2009

**FLOODPLAIN MANAGEMENT ORDINANCE  
60.3(b)****ORDINANCE # 346****ARTICLE 1 STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND  
PURPOSES****SECTION A. STATUTORY AUTHORIZATION***1. Approval of Draft Ordinance by Kansas Chief Engineer Prior to Adoption*

The following floodplain management regulations, as written, were approved in draft form by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on November 20, 2009.

*2. Kansas Statutory Authorization*

The Legislature of the State of Kansas has in K.S.A. 12-741 *et seq*, and specifically in K.S.A. 12-766, delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the City Council of the City of Overbrook, Kansas, ordains as follows:

**SECTION B. FINDINGS OF FACT***1. Flood Losses Resulting from Periodic Inundation*

The special flood hazard areas of the City of Overbrook, Kansas are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.

*2. General Causes of the Flood Losses*

These flood losses are caused by (1) the cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and (2) the occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

**SECTION C. STATEMENT OF PURPOSE**

It is the purpose of this ordinance to promote the public health, safety, and general welfare; to minimize those losses described in Article 1, Section B(1); to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal

Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(b) and K.A.R. 5-44-4 by applying the provisions of this ordinance to:

1. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
2. Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
3. Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

## **ARTICLE 2 GENERAL PROVISIONS**

### **SECTION A. LANDS TO WHICH ORDINANCE APPLIES**

This ordinance shall apply to all lands within the jurisdiction of the City of Overbrook identified as unnumbered A zones on the Index Map dated February 3, 2010 of the Flood Insurance Rate Map (FIRM) as amended.

### **SECTION B. COMPLIANCE**

No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

### **SECTION C. ABROGATION AND GREATER RESTRICTIONS**

It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

### **SECTION D. INTERPRETATION**

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by Kansas statutes.

### **SECTION E. WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions.

This ordinance shall not create a liability on the part of the City of Overbrook, any officer or employee thereof, for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made there under.

## SECTION F. SEVERABILITY

If any section; clause; provision; or portion of this ordinance is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this ordinance shall not be affected thereby.

## ARTICLE 3 ADMINISTRATION

### SECTION A. FLOODPLAIN DEVELOPMENT PERMIT

A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in Article 2, Section A. No person, firm, corporation, or unit of government shall initiate any development or substantial-improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.

### SECTION B. DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The City Clerk is hereby appointed to administer and implement the provisions of this ordinance as the Floodplain Administrator.

### SECTION C. DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR

Duties of the Floodplain Administrator shall include, but not be limited to:

1. Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this ordinance have been satisfied;
2. Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;
3. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
4. Issue floodplain development permits for all approved applications;
5. Notify adjacent communities and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
6. Assure that the flood-carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse; and

7. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures;
8. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed; and
9. When floodproofing techniques are utilized for a particular non-residential structure, the Floodplain Administrator shall require certification from a registered professional engineer or architect.

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#### SECTION D. APPLICATION FOR FLOODPLAIN DEVELOPMENT PERMIT

To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

1. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed building or work;
2. Identify and describe the work to be covered by the floodplain development permit;
3. Indicate the use or occupancy for which the proposed work is intended;
4. Indicate the assessed value of the structure and the fair market value of the improvement;
5. Identify the existing base flood elevation and the elevation of the proposed development;
6. Give such other information as reasonably may be required by the Floodplain Administrator;
7. Be accompanied by plans and specifications for proposed construction; and
8. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

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### ARTICLE 4 PROVISIONS FOR FLOOD HAZARD REDUCTION

#### SECTION A. GENERAL STANDARDS

1. No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any unnumbered A zone unless the conditions of this section are satisfied.



2. All areas identified as unnumbered A zones on the Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map (FHBM) are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this ordinance. If the Flood Insurance Study is not available; the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from State, Federal and other sources.
3. All new construction, subdivision proposals, substantial-improvements, prefabricated buildings, placement of manufactured homes, and other developments shall require:
  - a. Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - b. Construction with materials resistant to flood damage;
  - c. Utilization of methods and practices that minimize flood damages;
  - d. All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  - e. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination from them during flooding; and
  - f. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
    - (1) All such proposals are consistent with the need to minimize flood damage;
    - (2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
    - (3) Adequate drainage is provided so as to reduce exposure to flood hazards; and
    - (4) All proposals for development, including proposals for manufactured home parks and subdivisions, of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.
4. *Storage, Material, and Equipment*
  - a. The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
  - b. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

5. *Nonconforming Use*

A structure, or the use of a structure or premises that was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance, may be continued subject to the following conditions:

- a. If such structure, use, or utility service is discontinued for 9 consecutive months, any future use of the building shall conform to this ordinance.
- b. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.

SECTION B. SPECIFIC STANDARDS

1. In all areas of special flood hazard, once **base flood elevation** data is obtained, as set forth in Article 4, Section A(2), the following provisions are required:

- a. *Residential Construction*

New construction or substantial-improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to a minimum of one (1) foot above base flood level. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**

- b. *Non-Residential Construction*

New construction or substantial-improvement of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed to a minimum of one (1) foot above the base flood elevation. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.** Such certification shall be provided to the floodplain administrator as set forth in Article 3, Section C(7)(8)(9).

- c. Require for all new construction and substantial-improvements, that fully enclosed areas below the lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- (1) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and
  - (2) The bottom of all opening shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
2. In all areas of special flood hazard, once **floodway** data is obtained, as set forth in Article 4, Section A(2), the following provisions are required:
    - a. The designated floodway shall be based on the standard that the area chosen for the floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation more than one (1) foot at any point; and
    - b. The community shall prohibit any encroachments, including fill, new construction, substantial-improvements, and other development within the designated regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in **any** increase in flood levels within the community during the occurrence of the base flood discharge.

## SECTION C. MANUFACTURED HOMES

1. All manufactured homes to be placed within special flood hazard areas shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
2. Require manufactured homes that are placed or substantially improved within unnumbered A zones on the community's FIRM or FHBM on sites:
  - a. Outside of a manufactured home park or subdivision;
  - b. In a new manufactured home park or subdivision;
  - c. In an expansion to an existing manufactured home park or subdivision; or
  - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial-damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to a minimum of one (1) foot above the base flood level and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**

3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within unnumbered A zones on the community's FIRM or FHBM, that are not subject to the provisions of Article 4, Section C(2) of this ordinance, be elevated so that either:
  - a. The lowest floor of the manufactured home is a minimum of one (1) foot above the base flood level; or
  - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**

#### SECTION D. RECREATIONAL VEHICLES

Require that recreational vehicles placed on sites within unnumbered A zones on the community's FIRM or FHBM either:

1. Be on the site for fewer than 180 consecutive days, or
2. Be fully licensed and ready for highway use\*; or
3. Meet the permitting, elevating, and the anchoring requirements for manufactured homes of this ordinance.

\*A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

### ARTICLE 5 FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES

#### SECTION A. ESTABLISHMENT OF APPEAL BOARD

The Planning Commission, Appeal Board, as established by the City of Overbrook shall hear and decide appeals and requests for variances from the floodplain management requirements of this ordinance.

#### SECTION B. RESPONSIBILITY OF APPEAL BOARD

Where an application for a floodplain development permit is denied by the Floodplain Administrator, the applicant may apply for such floodplain development permit directly to the Appeal Board, as defined in Article 5, Section A.

The Appeal Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

## SECTION C. FURTHER APPEALS

Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the District Court of the County as provided in K.S.A. 12-759 and 12-760.

## SECTION D. FLOODPLAIN MANAGEMENT VARIANCE CRITERIA

In passing upon such applications for variances, the Appeal Board shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this ordinance, and the following criteria:

1. Danger to life and property due to flood damage;
2. Danger that materials may be swept onto other lands to the injury of others;
3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. Importance of the services provided by the proposed facility to the community;
5. Necessity to the facility of a waterfront location, where applicable;
6. Availability of alternative locations, not subject to flood damage, for the proposed use;
7. Compatibility of the proposed use with existing and anticipated development;
8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. Safety of access to the property in times of flood for ordinary and emergency vehicles;
10. Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,
11. Costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

## SECTION E. CONDITIONS FOR APPROVING FLOODPLAIN MANAGEMENT VARIANCES

1. Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, providing items two (2) through six (6) below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

2. Variances may be issued for the reconstruction, repair, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination, provided the proposed activity will not preclude the structure's continued historic designation and the variance is the minimum necessary to preserve the historic character and design of the structure.
3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon: (a) showing of good and sufficient cause, (b) determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
6. A community shall notify the applicant in writing over the signature of a community official that: (a) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (b) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

## **ARTICLE 6 PENALTIES FOR VIOLATION**

Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$ 500.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Overbrook (community name) or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

## **ARTICLE 7 AMENDMENTS**

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Overbrook (community name). At least twenty (20) days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the FEMA Region VII office. The regulations of this ordinance are in compliance with the NFIP regulations.

## **ARTICLE 8 DEFINITIONS**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning they have in common usage and to give this ordinance its most reasonable application.

**"100-year Flood"** *see "base flood."*

**"Accessory Structure"** means the same as *"appurtenant structure."*

**"Actuarial Rates"** *see "risk premium rates."*

**"Administrator"** means the Federal Insurance Administrator.

**"Agency"** means the Federal Emergency Management Agency (FEMA).

**"Appeal"** means a request for review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

**"Appurtenant Structure"** means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

**"Area of Special Flood Hazard"** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

**"Base Flood"** means the flood having a one percent chance of being equaled or exceeded in any given year.

**"Basement"** means any area of the building having its floor subgrade (below ground level) on all sides.

**"Building"** *see "structure."*

**"Chief Engineer"** means the chief engineer of the division of water resources, Kansas Department Of Agriculture.

**"Chief Executive Officer" or "Chief Elected Official"** means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

**"Community"** means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

**"Development"** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**"Elevated Building"** means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**"Eligible Community" or "Participating Community"** means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

**"Existing Construction"** means for the purposes of determining rates, structures for which the *"start of construction"* commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. *"existing construction"* may also be referred to as *"existing structures."*

**"Existing Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**"Expansion to an Existing Manufactured Home Park or Subdivision"** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**"Flood" or "Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; and (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item (1).

**"Flood Hazard Boundary Map (FHBM)"** means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

**"Flood Hazard Map"** means the document adopted by the governing body showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.

**"Flood Insurance Rate Map (FIRM)"** means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

**"Flood Insurance Study (FIS)"** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**"Floodplain" or "Flood-prone Area"** means any land area susceptible to being inundated by water from any source (*see "flooding"*).

**"Floodplain Management"** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.



**"Floodplain Management Regulations"** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

**"Floodproofing"** means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

**"Floodway" or "Regulatory Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**"Freeboard"** means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. *"Freeboard"* tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

**"Functionally Dependent Use"** means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

**"Highest Adjacent Grade"** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**"Historic Structure"** means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

**"Lowest Floor"** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, **provided** that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this ordinance.

**"Manufactured Home"** means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term *"manufactured home"* **does not include** a *"recreational vehicle."*

**"Manufactured Home Park or Subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**"Map"** means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

**"Market Value" or "Fair Market Value"** means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

**"Mean Sea Level"** means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

**"New Construction"** means, for the purposes of determining insurance rates, structures for which the *"start of construction"* commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *"new construction"* means structures for which the *"start of construction"* commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**"New Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

**"(NFIP)"** means the National Flood Insurance Program (NFIP).

**"Participating Community"** also known as an *"eligible community,"* means a community in which the Administrator has authorized the sale of flood insurance.

**"Permit"** means a signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as: (1) the site plan; (2) an elevation certificate; and (3) any other necessary or applicable approvals or authorizations from local, state or federal authorities.

**"Person"** includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

**"Principally Above Ground"** means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

**"Recreational Vehicle"** means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towable by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**"Remedy A Violation"** means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

**"Risk Premium Rates"** means those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. *"Risk premium rates"* include provisions for operating costs and allowances.

**"Special Flood Hazard Area"** see *"area of special flood hazard."*

**"Special Hazard Area"** means an area having special flood hazards and shown on a FIRM or FHBM as zones (unnumbered or numbered) A, AO, AE, or AH.

**"Start of Construction"** includes substantial-improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The *actual start* means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial-improvement, the *actual start of construction* means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**"State Coordinating Agency"** means the Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the NFIP in the state of Kansas.

**"Structure"** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *"Structure"* for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation, or a travel trailer, without wheels on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

**"Substantial-Damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**"Substantial-Improvement"** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before *"start of construction"* of the improvement. This term includes structures which have incurred *"substantial-damage,"* regardless of the actual repair work performed. The term does not, however, include either (1) any project or improvement of a structure to correct existing violations of state or

local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "*historic structure*," provided that the alteration will not preclude the structure's continued designation as a "*historic structure*."

**"Variance"** means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

**"Violation"** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. ~~A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.~~

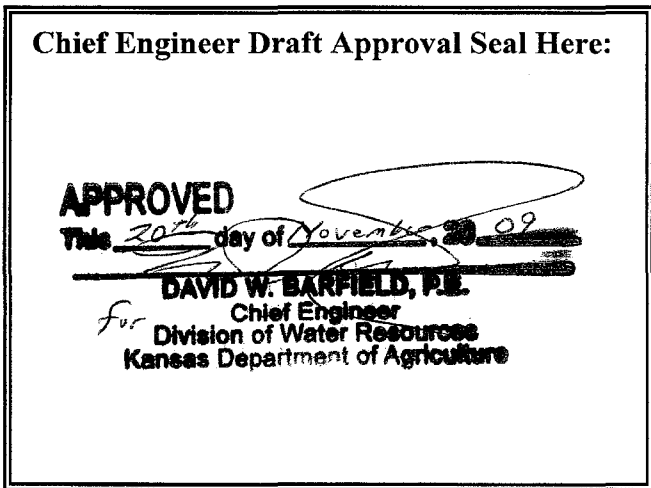
**"Water Surface Elevation"** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

ARTICLE 9 CERTIFICATE OF ADOPTION

This Floodplain Management Ordinance for the community of the City of Overbrook, Kansas.

PASSED AND ADOPTED by the Governing Body of the City of Overbrook, Kansas.

This <sup>13<sup>th</sup></sup> day of January, 2010. JHK  
~~This 9<sup>th</sup> day of December, 2009.~~



**APPROVED:** [Signature] 1-13-10  
Signature of Chief Executive Officer/Chief Elected Official Date

Don Schultz 1-13-10  
Chief Executive Officer/Chief Elected Official Name (Typed/printed) Title

**ATTEST:** James H. Koger City Clerk 1-13-10  
Signature of Recording Clerk Date

James H. Koger City Clerk 1-13-10  
Recording Clerk Name (Typed/printed) Title

Published in Official News publication Osage County Herald (name of Publication).

WATER RESOURCES  
RECEIVED  
NOV 16 2009

**ORDINANCE NO. 347**

**AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF \$775,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES 2010, OF THE CITY OF OVERBROOK, KANSAS, FOR THE PURPOSE OF PROVIDING FUNDS TO REFUND ALL OF THE CITY'S OUTSTANDING GENERAL OBLIGATION BONDS, SERIES 1998, DATED SEPTEMBER 1, 1998, AND TO PAY THE COSTS OF MAKING CERTAIN IMPROVEMENTS TO THE CITY'S WATER AND STREETS; AND MAKING CERTAIN COVENANTS AND AGREEMENTS WITH RESPECT THERETO.**

**WHEREAS**, the City of Overbrook, Kansas (the "Issuer" or "City"), is a municipal subdivision, body corporate and politic duly created, organized and existing under the laws of the State of Kansas; and

**WHEREAS**, the City is authorized under the provisions of the Act, to issue and sell general obligation bonds for the purpose of paying all or part of the costs of constructing and of making alterations, repairs, reconstructions, extensions, enlargements and improvements to the City-owned water supply system and streets and refunding general obligation bonds issued in accordance with K.S.A. 65-163u *et seq.* with general obligation refunding bonds; and

**WHEREAS**, the City has issued and sold its General Obligation Bonds, Series 1998, dated September 1, 1998, of which \$235,000 remains unpaid and outstanding (the "Outstanding Bonds"); and

**WHEREAS**, the general obligation refunding bonds do not exceed the aggregate amount of the principal amount of the Series 1998 Bonds or interest being refunded, the amount of any interest which has accrued or will accrue to the date of payment of the Series 1998 Bonds being refunded or the amount of any redemption premium, or necessary expenses for issuance; and

**WHEREAS**, the City hereby finds and determines that it is desirable and in the best interests of the City, in accordance with the Act, to authorize the issuance of general obligation refunding bonds for the purpose of refunding the City's Outstanding Bonds, Series 1998, dated September 1, 1998 (the "Refunded Bonds"); and

**WHEREAS**, the City passed and adopted Ordinance No. 345 and Resolutions No. 2009-09 and 2010-04, in accordance with the Act, as published in The Osage County Herald-Chronicle on October 22, 2009 and October 22, 2009, giving notice of the City's intent to issue general obligation street improvement bonds in an amount not to exceed \$400,000 and water system improvement bonds in an amount of not to exceed \$200,000; and

**WHEREAS**, the Act authorizes the issuance of general obligation refunding bonds the proceeds of which may be used to refund the Outstanding Bonds; and

**WHEREAS**, the City is authorized under the provisions of the Act, to issue and sell general obligation improvement bonds in an amount not to exceed \$400,000 for the purpose of paying all of the costs of constructing and making alterations, repairs, reconstruction, extensions, enlargements and improvements to the city-owned streets (the "Street Improvements"); and

**WHEREAS**, the City is authorized under the provisions of the Act, to issue and sell general obligation improvement bonds for the purpose of paying all of the costs of constructing and of making alterations, repairs, reconstructions, extensions, enlargements and improvements to the City-owned water distribution system in an amount not to exceed \$200,000 (the "Water System Improvements"); and

**WHEREAS**, the City hereby finds and determines that it is desirable and in the best interests of the City to authorize the issuance and sale of general obligation refunding bonds in the aggregate principal amount of \$225,000, in accordance with the Act, for the purpose of providing funds to pay and redeem the Outstanding Bonds and pay the costs of refunding all of the Refunded Bonds; and

**WHEREAS**, the City hereby finds and determines that it is desirable and in the best interests of the City to authorize the issuance and sale of general obligation bonds, in accordance with the Act, in the aggregate principal amount of \$350,000 for the purpose of providing funds to pay all of the costs of the Street Improvements; and

**WHEREAS**, the City hereby finds and determines that it is desirable and in the best interests of the City to authorize the issuance and sale of general obligation bonds, in accordance with the Act, in the aggregate principal amount of \$200,000 for the purpose of providing funds to pay all of the costs of the Water System Improvements; and

**WHEREAS**, the City hereby finds and determines that it is desirable and in the best interests of the City to authorize the issuance of and sale of general obligation refunding bonds, in accordance with the Act, in the aggregate principal amount of \$225,000 for the purpose of providing funds to pay all of the costs of paying, refunding and redeeming the Refunded Bonds and pay the costs of issuance thereof; and

**WHEREAS**, the Act, including but not limited to K.S.A. 10-427 and 10-427a, as amended and supplemented, authorizes the issuance of the Bonds, the proceeds of which may be used to refund the Refunded Bonds; and

**WHEREAS**, the Act, including but not limited to K.S.A. 65-163u *et seq.*, as amended and supplemented, authorizes the issuance of the Bonds, the proceeds of which may be used to pay all or a part of the costs of making and constructing the Water System Improvements; and

**WHEREAS**, the Act, including but not limited to K.S.A. 12-685 *et seq.*, as amended and supplemented, authorizes the issuance of the Bonds, the proceeds of which may be used to pay all or a part of the costs of making and constructing the Street Improvements.

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OVERBROOK, KANSAS, AS FOLLOWS:**

**Section 1. Definitions of Words and Terms.** In addition to the words and terms defined elsewhere in this Authorizing Ordinance and in the Resolution, the following words and terms as used in this Authorizing Ordinance shall have the following meanings:

"Act" shall mean Ordinance No. 345 and Resolutions No. 2009-09 and 2010-04 of the City of Overbrook, Kansas, the constitution and statutes of the State of Kansas, including K.S.A. 65-163u *et seq.*, K.S.A. 12-685 *et seq.*, K.S.A. 10-427 and 10-427a *et seq.*, and K.S.A. 10-620 *et seq.*, all as amended and supplemented.

"Authorizing Ordinance" means this Ordinance No. 347.

"Bonds" means the City's General Obligation Refunding and Improvement Bonds, Series 2010, dated July 27, 2010, in the aggregate principal amount of \$775,000 authorized and issued pursuant to this Ordinance.

"City Clerk" means the City Clerk of the City of Overbrook, Kansas.

"Code" means the Internal Revenue Code of 1986, as amended, together with any regulations applicable thereto or promulgated thereunder by the United States Department of the Treasury.

"Issuer" or "City" means the City of Overbrook, Kansas.



"Mayor" shall mean the duly elected Mayor or, in the Mayor's absence, the duly appointed Deputy Mayor of the City.

"Outstanding Bonds" means the Series 1998 Bonds maturing in the years 2010 through 2018, inclusive, in the aggregate principal amount of \$235,000.

"Refunded Bonds" means the Series 1998 Bonds, maturing October 1 in the years 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017 and 2018, inclusive, in the aggregate principal amount of \$235,000.

"Resolution" means the resolution to be adopted by the governing body of the City prescribing the terms and details of the Bonds and making covenants with respect thereto.

"Series 1998 Bonds" means the Issuer's General Obligation Bonds, Series 1998, dated September 1, 1998, in the outstanding principal amount of \$235,000.

**Section 2. Authorization of the Water System Improvements and the Street Improvements and the Refunding of the Series 1998 Bonds.** That the Water System Improvements and the Street Improvements and the refunding and payment of the Refunded Bonds, together with all things necessary and incidental thereto to serve the City are hereby authorized and ordered to be done in accordance with the Act and with the plans and specifications therefor as filed with the City Clerk of the City.

**Section 3. Authorization of the Bonds.** There shall be issued and are hereby authorized and directed to be issued the General Obligation Refunding and Improvement Bonds, Series 2010, dated July 27, 2010, of the City in the principal amount of \$775,000 (the "Bonds") for the purpose of providing funds to pay the costs of refunding the Refunded Bonds and making and constructing and paying all or a part of the costs of the Water System Improvements and the Street Improvements, all in accordance with the Act.

**Section 4. Security for the Bonds.** The Bonds shall be general obligations of the City payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City. The full faith, credit and resources of the City are irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

**Section 5. Terms, Details and Conditions of the Bonds.** The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Resolution hereinafter adopted by the governing body of the City.

**Section 6. Tax Covenants.** The City covenants and agrees that it will not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on the Bonds under Section 103 of the Code. The City covenants and agrees that it will use the proceeds of the Bonds as soon as practicable and with all reasonable dispatch for the purpose for which the Bonds are issued as hereinbefore set forth, and that it will not directly or indirectly use or permit the use of any proceeds of the Bonds or any other funds of the City, or take or omit to take any action that would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code. To that end, the City will comply with all requirements of Section 148 of the Code to the extent applicable to the Bonds. In the event that at any time the City is of the opinion that for purposes of this Section it is necessary to restrict or limit the yield on the investment of any moneys held by the City under the Resolution, the City shall take such action as may be necessary.

**Section 7. Further Authority.** The Mayor, City Clerk and other City officials are hereby further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to issue the Bonds, and to make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein authorized which they may approve.

**Section 8. Qualified Tax-Exempt Obligations.** The Bonds are designated as "qualified tax-exempt obligations" for the purposes of Section 265(b)(3) of the Code.


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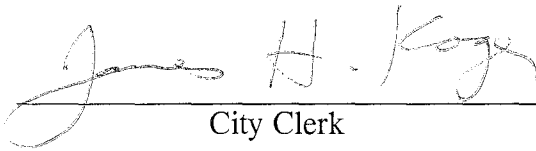
**ADOPTED** by the governing body of the City on July 8, 2010.

[SEAL]



ATTEST:

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
City Clerk

ORDINANCE NO. 348

WHEREAS, Galaxy Cable Inc. d/b/a Galaxy Cablevision ("Galaxy") currently operates a cable television system within the City of Overbrook, KS, under franchise Ordinance 109, as may have been amended, assigned or extended (the "Franchise"); and

WHEREAS, Galaxy and Zito Midwest LLC, a Delaware limited liability company ("Zito") have entered into that Asset Purchase Agreement dated the 11<sup>th</sup> day of May, 2010, (the "Agreement") whereby Zito is acquiring all or substantially all of Galaxy's assets used in the operation of its cable system in Overbrook; and

WHEREAS, pursuant to the Agreement, on the closing date Galaxy will transfer and assign the Franchise to Zito, and Zito will assume all obligations arising from the Franchise on and after the closing date; and

WHEREAS, Galaxy has requested in writing that the City consent to the transfer of the Franchise to Zito;

NOW, THEREFORE, BE IT RESOLVED by the City of Overbrook, KS as follows:

That, subject to Galaxy and Zito closing the underlying sale of Galaxy's cable system in Overbrook, the City hereby consents to the assignment and transfer of all rights and privileges of the Franchise from Galaxy to Zito, together with all duties and obligations of Galaxy under the Franchise and, upon the transfer from Galaxy to Zito, hereby releases Galaxy from any and all duties and obligations under the Franchise which arise from and after the effective date and time of the closing of such transfer. The City further consents to Zito's collateral assignment of, or grant of a security interest in, the Franchise to its lenders to secure indebtedness or other obligations that may be incurred by it with respect to the cable television system. Nothing in this Ordinance constitutes any waiver of any rights by the City to approve any subsequent transfer, assignment or sale of the Franchise.

PASSED, ADOPTED AND APPROVED this 13<sup>th</sup> day of October, 2010.



City of Overbrook, KS

By: [Signature]  
Title: Mayor

Attest:

[Signature]  
City Clerk

**ORDINANCE NO 349**

AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 286 REGARDING COMPENSATION FOR MEMBERS OF THE GOVERNING BODY OF THE CITY OF OVERBROOK, KANSAS.

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

SECTION 1. THIS ordinance repeals and replaces Ordinance No. 286.

SECTION 2. NO compensation shall be paid to members of the governing body of the city for any activities of the governing body including but not limited to attendance of regular or special meetings of the governing body.

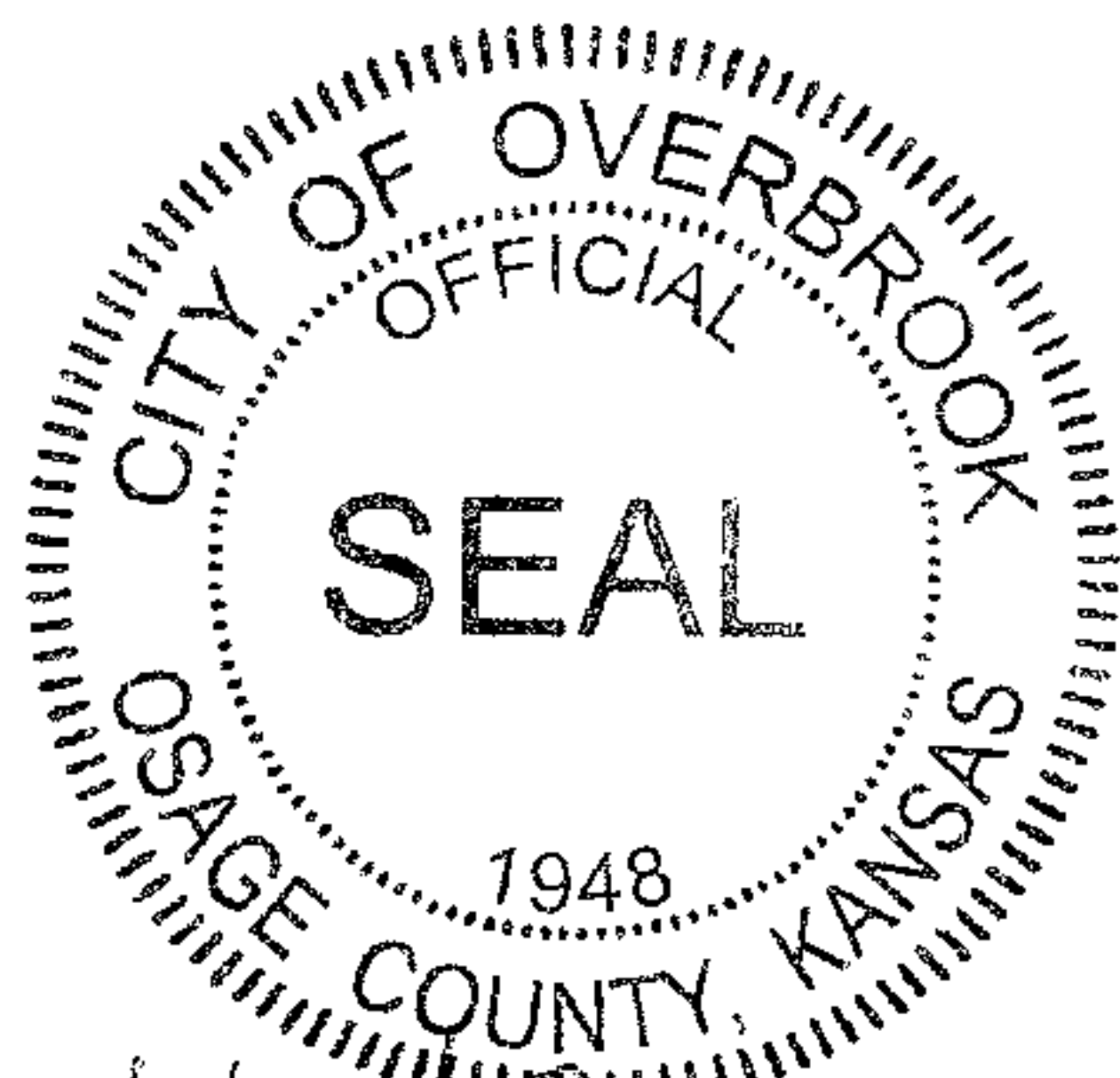
SECTION 3. NOTHING in this ordinance shall be construed to limit or prohibit reimbursement to a member of the governing body for necessary expenses reasonably incurred in the discharge of his or her duties as member of the governing body.

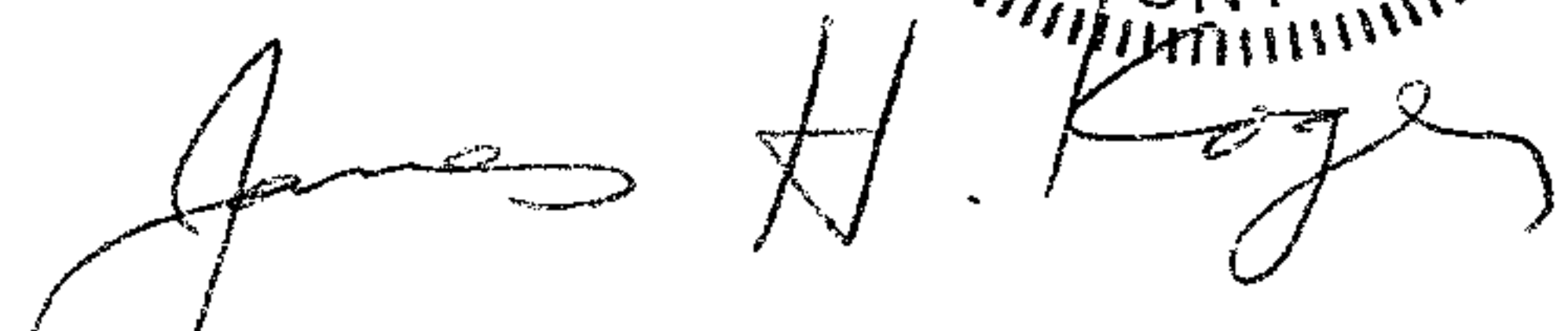
SECTION 4. THIS ordinance shall take effect and be kept in force from and after its passage, approval and publication in the official city newspaper, as provided by law.

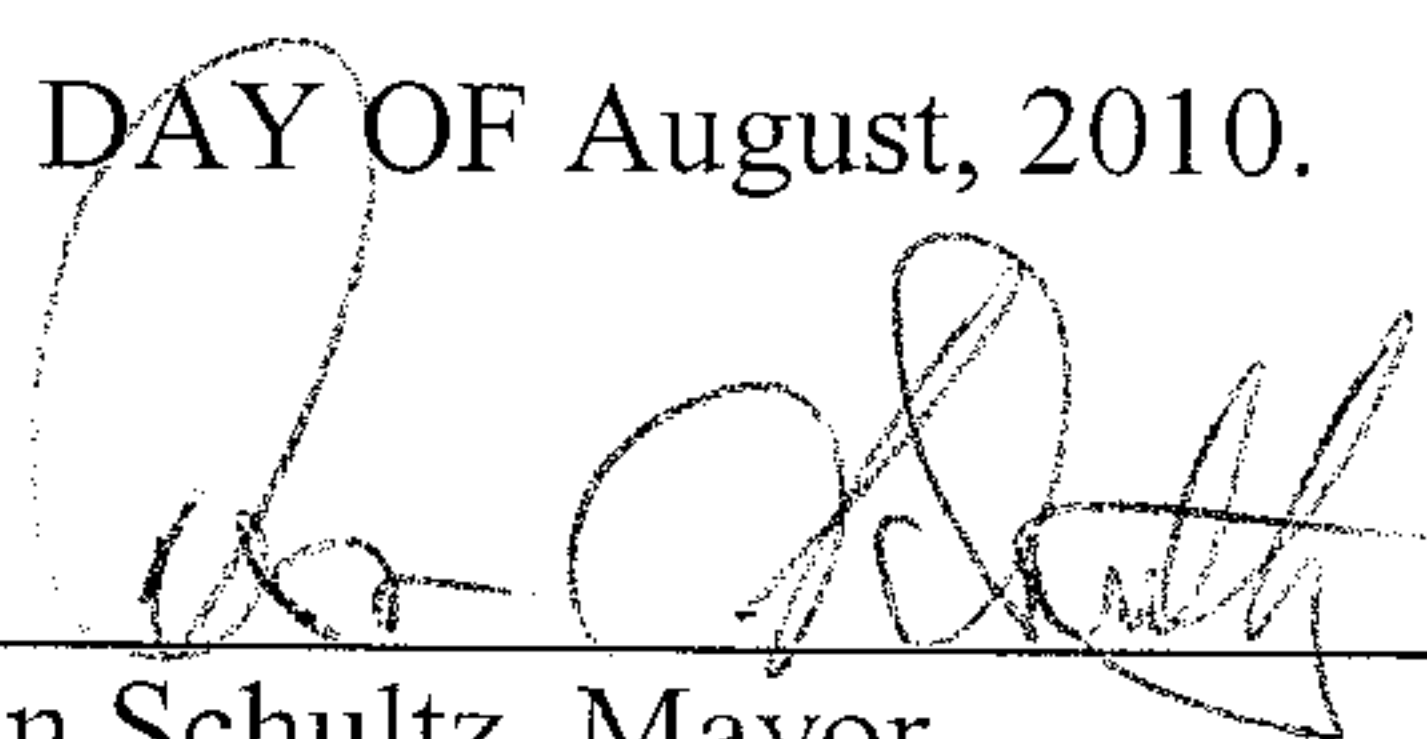
PASSED AND APPROVED THIS 11<sup>th</sup> DAY OF August, 2010.

ATTEST:

(SEAL)



  
James H. Koger, City Clerk

  
Don Schultz, Mayor

ORDINANCE NO. 350

AN ORDINANCE REGULATING TRAFFIC WITHIN THE CORPORATE LIMITS OF THE CITY OF OVERBROOK, KANSAS: INCORPORATING BY REFERENCE THE "STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES, "EDITION OF 2010", PROVIDING CERTAIN PENALTIES AND REPEALING ORDINANCE NO. 335.

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

SECTION 1. INCORPORATING STANDARD TRAFFIC ORDINANCE.

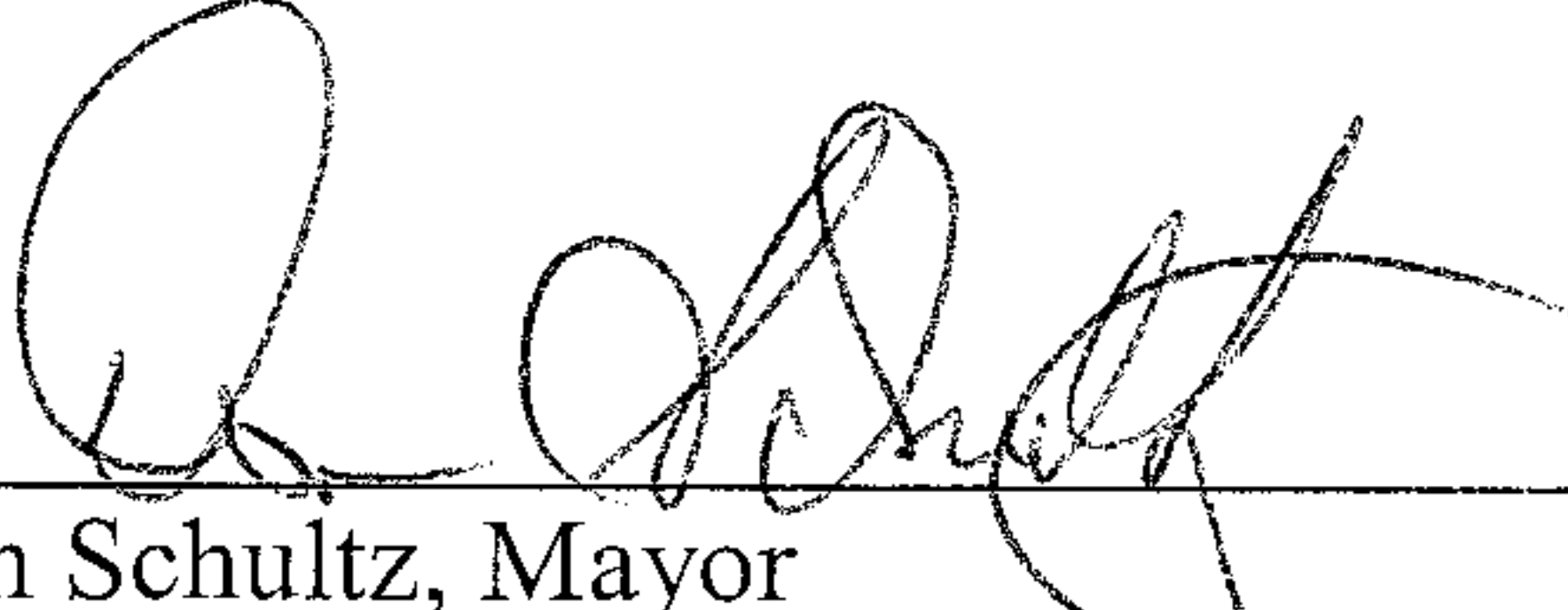
There is hereby incorporated by reference for the City of Overbrook, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities", Edition of 2010, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas. No fewer than three (3) copies of said Standard Traffic Ordinance shall be marked or stamped "Official Copy as Adopted by Ordinance No. 350, and to which shall be attached a copy of this Ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Police department, Municipal Judge, and all administrative departments of the city charged with the enforcement of the ordinance shall be supplied, at the cost of the city, such number of official copies of such Standard Traffic Ordinance similarly marked, as may be deemed expedient.

SECTION 2. EFFECTIVE DATE.

This ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper as provided by law.

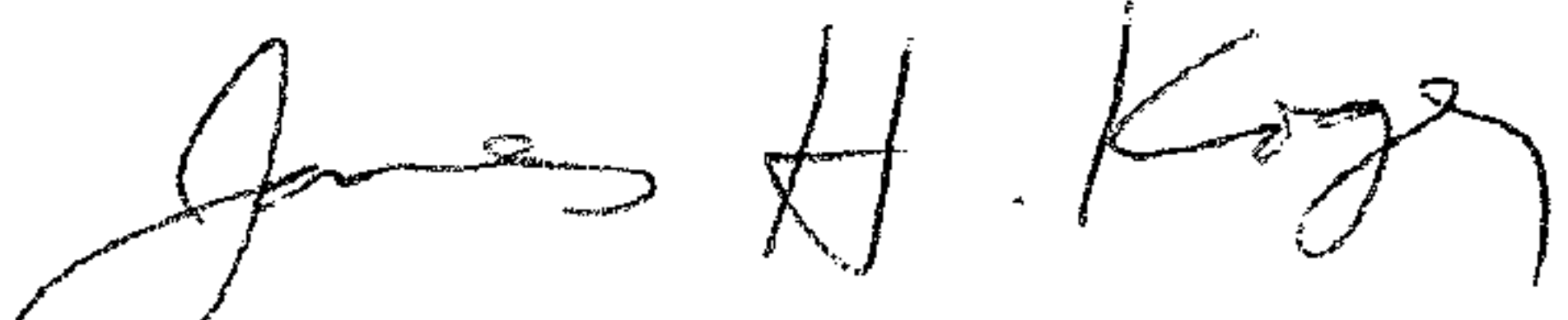
PASSED AND APPROVED THIS 11<sup>th</sup> DAY OF AUGUST, 2010.



  
\_\_\_\_\_  
Don Schultz, Mayor

ATTEST:

(SEAL)

  
\_\_\_\_\_  
James H. Koger, City Clerk

An Ordinance providing for fishing at the Children's Fishing Pond in requirements for fishing; rules and regulations governing fishing and recreational use of the Children's Fishing Pond for the City of Overbrook.

Be it ordained by the Governing Body of the City of Overbrook, Kansas.

Section 1:

Fishing is for Ages 16 and under only.

No City Permit is required.

The Children's Fishing Pond is open from sunup to sundown.

Section 2:

Daily Limits per Youth:

Species Name

2 Catfish 15 inch minimum

1 Wiper 18 inch minimum

5 Bluegills (includes Crappie)

1 Bass 18 inch minimum

Section 3:

This Ordinance shall be in effect from and after its passage, approval and publication in the City of Overbrook Newspaper.

Passed and approved this 15th Day of August

Don Schultz, Mayor

Attested by:

*Jim Koger*

Jim Koger, City Clerk



ORDINANCE NO. 308

AN ORDINANCE RELATING TO THE WATERWORKS SYSTEM AND FIXING RATES AND CHARGES FOR THE CONNECTION WITH AND USE OF WATER FROM THE SAME AND FEES, AND REPEALING SECTION 1 OF ORDINANCE NO. 272.

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

SECTION 1. THAT EFFECTIVE April 9, 2008, there is hereby assigned And fixed, the following monthly rates and charges for the use Of water from the waterworks system supplied by the City Of Overbrook, Kansas:

MINIMUM CHARGE - FIRST 1,000 GALLONS....\$12.96

ALL OVER 1,000 GALLONS.....\$7.02/1000 GALLONS  
OR FRACTION THEREOF

PUBLIC SCHOOLS WITHIN THE CITY LIMITS OF OVERBROOK SHALL BE SUBJECT TO A MONTHLY CHARGE OF A FLAT RATE OF \$7.02/1000 GALLONS. (NOT SUBJECT TO MINIMUM)

SECTION 2. THAT said Section 1 of Ordinance No. 272 is hereby repealed.

SECTION 3. 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.

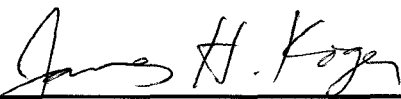
PASSED AND APPROVED THIS 9<sup>th</sup> DAY OF April, 2008.

  
MAYOR

ATTEST:

(SEAL)

CITY CLERK





AN ORDINANCE RELATING TO THE SEWER SERVICE SYSTEM AND FIXING RATES AND CHARGES FOR THE USE THEREOF FROM THE SAME; AND REPEALING ORDINANCE NO. 285.

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

SECTION 1. THAT EFFECTIVE APRIL 9, 2008, there is hereby assigned and fixed, the following monthly rates and charges for the use of sewer services within the City of Overbrook, Kansas:

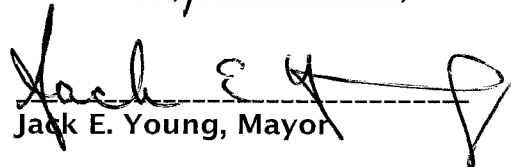
THERE SHALL BE a minimum charge of Eight dollars and Ten cents (\$8.10) per month, or any portion thereof, for each single family dwelling, mobile home, apartment, multiple family dwelling, commercial and industrial building whose water consumption is less than 1,000 gallons per month.

THERE SHALL BE an additional charge of Two dollars and Forty-Three cents (\$2.43) per month, or any portion thereof, for each additional 1,000 gallons of water used in excess of 1,000 gallons per month with no maximum charge.

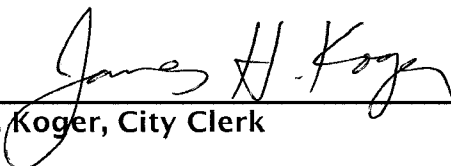
SECTION 2. THAT Ordinance No. 285 in its entirety is hereby repealed.

SECTION 3. 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 9<sup>th</sup> DAY OF April, 2008

  
Jack E. Young, Mayor

ATTEST:  
(SEAL)

  
James H. Koger, City Clerk

ORDINANCE NO. 312

AN ORDINANCE VACATING A PORTION OF FIRST STREET IN THE CITY OF OVERBROOK, KANSAS.

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

SECTION I. The following described street in the City of Overbrook, Osage County, Kansas:

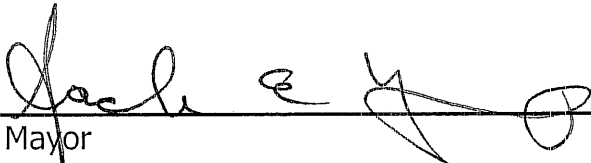
That portion of First Street east of Maple St. to the railroad easement, all in the City of Overbrook, according to the recorded plat thereof.

Previously dedicated to public street use, is hereby vacated with attached property owner consent, pursuant to K.S.A. 15-427..

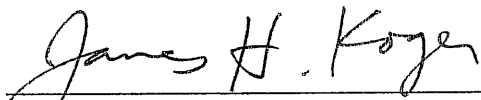
SECTION 2. This ordinance shall take effect and be in force from and after it's passage, approval, and publication as provided by law.

PASSED AND APPROVED THIS 13<sup>th</sup> DAY OF August, 2008.

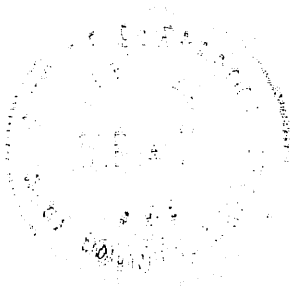
Signed,

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

(SEAL)



WATER RESOURCES  
DIVISION  
NOV 18 2009  
KANSAS DEPARTMENT OF AGRICULTURE

**FLOODPLAIN MANAGEMENT ORDINANCE  
60.3(b)**

**ORDINANCE # 346**

**ARTICLE 1            STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND  
PURPOSES**

**SECTION A. STATUTORY AUTHORIZATION**

*1. Approval of Draft Ordinance by Kansas Chief Engineer Prior to Adoption*

The following floodplain management regulations, as written, were approved in draft form by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on November 20, 2009.

*2. Kansas Statutory Authorization*

The Legislature of the State of Kansas has in K.S.A. 12-741 *et seq*, and specifically in K.S.A. 12-766, delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the City Council of the City of Overbrook, Kansas, ordains as follows:

**SECTION B. FINDINGS OF FACT**

*1. Flood Losses Resulting from Periodic Inundation*

The special flood hazard areas of the City of Overbrook, Kansas are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.

*2. General Causes of the Flood Losses*

These flood losses are caused by (1) the cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and (2) the occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

**SECTION C. STATEMENT OF PURPOSE**

It is the purpose of this ordinance to promote the public health, safety, and general welfare; to minimize those losses described in Article 1, Section B(1); to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal

Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(b) and K.A.R. 5-44-4 by applying the provisions of this ordinance to:

1. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
2. Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
3. Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

## ARTICLE 2 GENERAL PROVISIONS

### SECTION A. LANDS TO WHICH ORDINANCE APPLIES

This ordinance shall apply to all lands within the jurisdiction of the City of Overbrook identified as unnumbered A zones on the Index Map dated February 3, 2010 of the Flood Insurance Rate Map (FIRM) as amended.

### SECTION B. COMPLIANCE

No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

### SECTION C. ABROGATION AND GREATER RESTRICTIONS

It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

### SECTION D. INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by Kansas statutes.

### SECTION E. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions.

This ordinance shall not create a liability on the part of the City of Overbrook, any officer or employee thereof, for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made there under.

## SECTION F. SEVERABILITY

If any section; clause; provision; or portion of this ordinance is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this ordinance shall not be affected thereby.

## ARTICLE 3 ADMINISTRATION

### SECTION A. FLOODPLAIN DEVELOPMENT PERMIT

A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in Article 2, Section A. No person, firm, corporation, or unit of government shall initiate any development or substantial-improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.

### SECTION B. DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The City Clerk is hereby appointed to administer and implement the provisions of this ordinance as the Floodplain Administrator.

### SECTION C. DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR

Duties of the Floodplain Administrator shall include, but not be limited to:

1. Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this ordinance have been satisfied;
2. Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;
3. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
4. Issue floodplain development permits for all approved applications;
5. Notify adjacent communities and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
6. Assure that the flood-carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse; and

7. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures;
8. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed; and
9. When floodproofing techniques are utilized for a particular non-residential structure, the Floodplain Administrator shall require certification from a registered professional engineer or architect.

#### SECTION D. APPLICATION FOR FLOODPLAIN DEVELOPMENT PERMIT

To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

1. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed building or work;
2. Identify and describe the work to be covered by the floodplain development permit;
3. Indicate the use or occupancy for which the proposed work is intended;
4. Indicate the assessed value of the structure and the fair market value of the improvement;
5. Identify the existing base flood elevation and the elevation of the proposed development;
6. Give such other information as reasonably may be required by the Floodplain Administrator;
7. Be accompanied by plans and specifications for proposed construction; and
8. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

### ARTICLE 4 PROVISIONS FOR FLOOD HAZARD REDUCTION

#### SECTION A. GENERAL STANDARDS

1. No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any unnumbered A zone unless the conditions of this section are satisfied.

2. All areas identified as unnumbered A zones on the Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map (FHBM) are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this ordinance. If the Flood Insurance Study is not available; the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from State, Federal and other sources.
3. All new construction, subdivision proposals, substantial-improvements, prefabricated buildings, placement of manufactured homes, and other developments shall require:
  - a. Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - b. Construction with materials resistant to flood damage;
  - c. Utilization of methods and practices that minimize flood damages;
  - d. All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  - e. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination from them during flooding; and
  - f. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
    - (1) All such proposals are consistent with the need to minimize flood damage;
    - (2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
    - (3) Adequate drainage is provided so as to reduce exposure to flood hazards; and
    - (4) All proposals for development, including proposals for manufactured home parks and subdivisions, of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.
4. *Storage, Material, and Equipment*
  - a. The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
  - b. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

5. *Nonconforming Use*

A structure, or the use of a structure or premises that was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance, may be continued subject to the following conditions:

- a. If such structure, use, or utility service is discontinued for 9 consecutive months, any future use of the building shall conform to this ordinance.
- b. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.

SECTION B. SPECIFIC STANDARDS

1. In all areas of special flood hazard, once **base flood elevation** data is obtained, as set forth in Article 4, Section A(2), the following provisions are required:

- a. *Residential Construction*

New construction or substantial-improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to a minimum of one (1) foot above base flood level. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**

- b. *Non-Residential Construction*

New construction or substantial-improvement of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed to a minimum of one (1) foot above the base flood elevation. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.** Such certification shall be provided to the floodplain administrator as set forth in Article 3, Section C(7)(8)(9).

- c. Require for all new construction and substantial-improvements, that fully enclosed areas below the lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:



- (1) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and
  - (2) The bottom of all opening shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
2. In all areas of special flood hazard, once **floodway** data is obtained, as set forth in Article 4, Section A(2), the following provisions are required:
- a. The designated floodway shall be based on the standard that the area chosen for the floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation more than one (1) foot at any point; and
  - b. The community shall prohibit any encroachments, including fill, new construction, substantial-improvements, and other development within the designated regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in **any** increase in flood levels within the community during the occurrence of the base flood discharge.

#### SECTION C. MANUFACTURED HOMES

1. All manufactured homes to be placed within special flood hazard areas shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
2. Require manufactured homes that are placed or substantially improved within unnumbered A zones on the community's FIRM or FHBM on sites:
  - a. Outside of a manufactured home park or subdivision;
  - b. In a new manufactured home park or subdivision;
  - c. In an expansion to an existing manufactured home park or subdivision; or
  - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial-damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to a minimum of one (1) foot above the base flood level and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**

3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within unnumbered A zones on the community's FIRM or FHBM, that are not subject to the provisions of Article 4, Section C(2) of this ordinance, be elevated so that either:
  - a. The lowest floor of the manufactured home is a minimum of one (1) foot above the base flood level; or
  - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**

#### SECTION D. RECREATIONAL VEHICLES

Require that recreational vehicles placed on sites within unnumbered A zones on the community's FIRM or FHBM either:

1. Be on the site for fewer than 180 consecutive days, or
2. Be fully licensed and ready for highway use\*; or
3. Meet the permitting, elevating, and the anchoring requirements for manufactured homes of this ordinance.

\*A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

### ARTICLE 5 FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES

#### SECTION A. ESTABLISHMENT OF APPEAL BOARD

The Planning Commission, Appeal Board, as established by the City of Overbrook shall hear and decide appeals and requests for variances from the floodplain management requirements of this ordinance.

#### SECTION B. RESPONSIBILITY OF APPEAL BOARD

Where an application for a floodplain development permit is denied by the Floodplain Administrator, the applicant may apply for such floodplain development permit directly to the Appeal Board, as defined in Article 5, Section A.

The Appeal Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

## SECTION C. FURTHER APPEALS

Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the District Court of the County as provided in K.S.A. 12-759 and 12-760.

## SECTION D. FLOODPLAIN MANAGEMENT VARIANCE CRITERIA

In passing upon such applications for variances, the Appeal Board shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this ordinance, and the following criteria:

1. Danger to life and property due to flood damage;
2. Danger that materials may be swept onto other lands to the injury of others;
3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. Importance of the services provided by the proposed facility to the community;
5. Necessity to the facility of a waterfront location, where applicable;
6. Availability of alternative locations, not subject to flood damage, for the proposed use;
7. Compatibility of the proposed use with existing and anticipated development;
8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. Safety of access to the property in times of flood for ordinary and emergency vehicles;
10. Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,
11. Costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

## SECTION E. CONDITIONS FOR APPROVING FLOODPLAIN MANAGEMENT VARIANCES

1. Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, providing items two (2) through six (6) below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

2. Variances may be issued for the reconstruction, repair, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination, provided the proposed activity will not preclude the structure's continued historic designation and the variance is the minimum necessary to preserve the historic character and design of the structure.
3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon: (a) showing of good and sufficient cause, (b) determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
6. A community shall notify the applicant in writing over the signature of a community official that: (a) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (b) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

## **ARTICLE 6 PENALTIES FOR VIOLATION**

Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$ 500.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Overbrook (community name) or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

## **ARTICLE 7 AMENDMENTS**

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Overbrook (community name). At least twenty (20) days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the FEMA Region VII office. The regulations of this ordinance are in compliance with the NFIP regulations.

## **ARTICLE 8 DEFINITIONS**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning they have in common usage and to give this ordinance its most reasonable application.

**"100-year Flood"** *see "base flood."*

**"Accessory Structure"** means the same as *"appurtenant structure."*

**"Actuarial Rates"** *see "risk premium rates."*

**"Administrator"** means the Federal Insurance Administrator.

**"Agency"** means the Federal Emergency Management Agency (FEMA).

**"Appeal"** means a request for review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

**"Appurtenant Structure"** means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

**"Area of Special Flood Hazard"** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

**"Base Flood"** means the flood having a one percent chance of being equaled or exceeded in any given year.

**"Basement"** means any area of the building having its floor subgrade (below ground level) on all sides.

**"Building"** *see "structure."*

**"Chief Engineer"** means the chief engineer of the division of water resources, Kansas Department Of Agriculture.

**"Chief Executive Officer" or "Chief Elected Official"** means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

**"Community"** means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

**"Development"** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**"Elevated Building"** means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**"Eligible Community" or "Participating Community"** means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

**"Existing Construction"** means for the purposes of determining rates, structures for which the *"start of construction"* commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. *"existing construction"* may also be referred to as *"existing structures."*

**"Existing Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**"Expansion to an Existing Manufactured Home Park or Subdivision"** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**"Flood" or "Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; and (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item (1).

**"Flood Hazard Boundary Map (FHBM)"** means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

**"Flood Hazard Map"** means the document adopted by the governing body showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.

**"Flood Insurance Rate Map (FIRM)"** means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

**"Flood Insurance Study (FIS)"** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**"Floodplain" or "Flood-prone Area"** means any land area susceptible to being inundated by water from any source (*see "flooding"*).

**"Floodplain Management"** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**"Floodplain Management Regulations"** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

**"Floodproofing"** means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

**"Floodway" or "Regulatory Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**"Freeboard"** means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. *"Freeboard"* tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

**"Functionally Dependent Use"** means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

**"Highest Adjacent Grade"** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**"Historic Structure"** means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

**"Lowest Floor"** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, **provided** that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this ordinance.

**"Manufactured Home"** means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term *"manufactured home"* **does not include** a *"recreational vehicle."*

**"Manufactured Home Park or Subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**"Map"** means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

**"Market Value" or "Fair Market Value"** means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

**"Mean Sea Level"** means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

**"New Construction"** means, for the purposes of determining insurance rates, structures for which the *"start of construction"* commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *"new construction"* means structures for which the *"start of construction"* commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**"New Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

**"(NFIP)"** means the National Flood Insurance Program (NFIP).

**"Participating Community"** also known as an *"eligible community,"* means a community in which the Administrator has authorized the sale of flood insurance.

**"Permit"** means a signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as: (1) the site plan; (2) an elevation certificate; and (3) any other necessary or applicable approvals or authorizations from local, state or federal authorities.

**"Person"** includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

**"Principally Above Ground"** means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

**"Recreational Vehicle"** means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towable by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.



**"Remedy A Violation"** means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

**"Risk Premium Rates"** means those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. *"Risk premium rates"* include provisions for operating costs and allowances.

**"Special Flood Hazard Area"** see *"area of special flood hazard."*

**"Special Hazard Area"** means an area having special flood hazards and shown on a FIRM or FHBM as zones (unnumbered or numbered) A, AO, AE, or AH.

**"Start of Construction"** includes substantial-improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The *actual start* means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial-improvement, the *actual start of construction* means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**"State Coordinating Agency"** means the Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the NFIP in the state of Kansas.

**"Structure"** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *"Structure"* for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation, or a travel trailer, without wheels on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

**"Substantial-Damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**"Substantial-Improvement"** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before *"start of construction"* of the improvement. This term includes structures which have incurred *"substantial-damage,"* regardless of the actual repair work performed. The term does not, however, include either (1) any project or improvement of a structure to correct existing violations of state or

local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**"Variance"** means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

**"Violation"** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

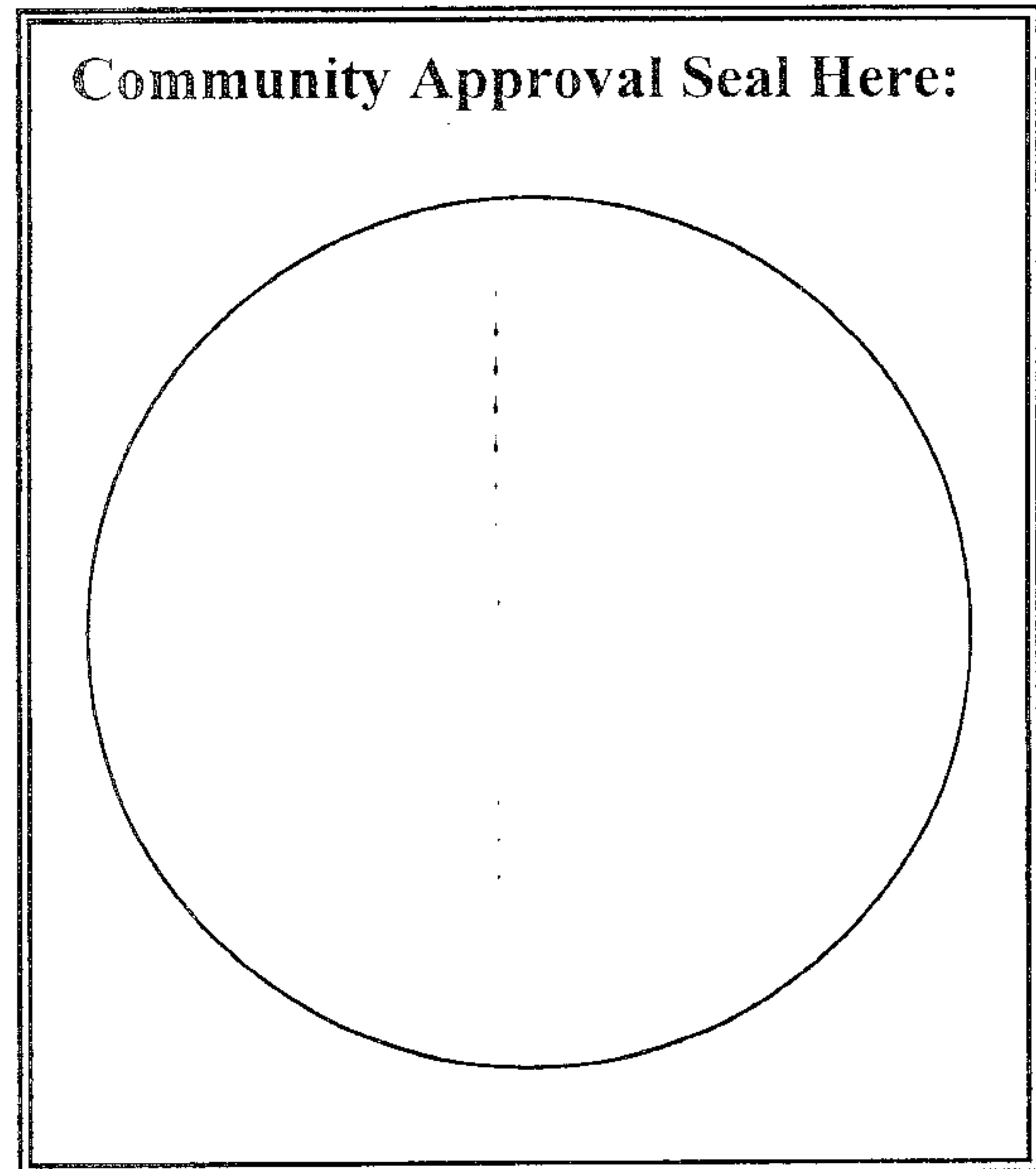
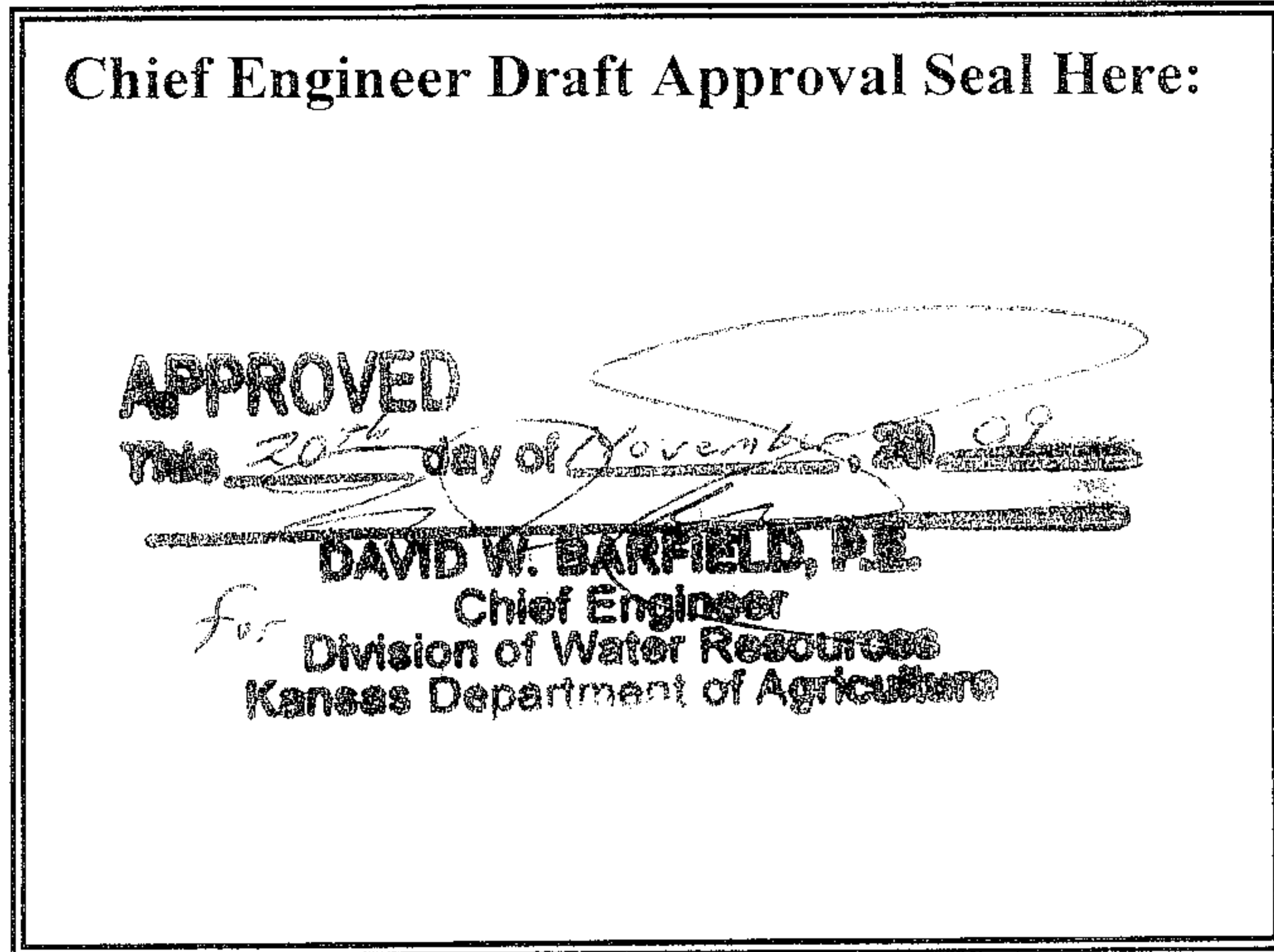
**"Water Surface Elevation"** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

ARTICLE 9 CERTIFICATE OF ADOPTION

This Floodplain Management Ordinance for the community of the City of Overbrook, Kansas.

PASSED AND ADOPTED by the Governing Body of the City of Overbrook, Kansas.

This 9<sup>th</sup> day of December, 2009 .



**APPROVED:**

Signature of Chief Executive Officer/Chief Elected Official	Date

Chief Executive Officer/Chief Elected Official Name (Typed/printed)	Title

**ATTEST:**

Signature of Recording Clerk	Date

Recording Clerk Name (Typed/printed)	Title

Published in Official News publication \_\_\_\_\_ (name of Publication).

WATER RESOURCES  
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# Recreation Commission

K.S.A. 12-1925(d) "Upon approval of the proposition by a majority of those voting on it at the election, the governing body of the city, by appropriate resolution or ordinance, shall provide for the establishment, maintenance and conduct of such recreation system as they deem advisable and practicable and shall appoint a recreation commission as provided by K.S.A. 12-1926 to be vested with the powers, duties and obligations necessary for the conduct of such recreation system."

Ordinance No. 326

DRAFT

Section 1: Creation of Recreation Commission. There is hereby created a Recreation Commission for the city of Overbrook, Kansas, for the purpose of maintaining and conducting recreation facilities and programs within the city. Such facilities shall initially include the city pool, the city lake, the city playgrounds and athletic fields and related buildings and facilities. The Recreation Commission shall be organized and governed pursuant to K.S.A. 12-1926 through K.S.A. 12-1935.

~~(What follows is a summary of the recreation commission statutes that are applicable to a city recreation system. If the council desires to change any of these rules, the ordinance should set out the details of how the recreation commission will operate.)~~

The recreation commission shall consist of five members to be appointed as follows:

The governing body of the city shall appoint four persons who are residents of the taxing district to serve as members of the recreation commission, the first appointee to serve for four years, the second for three years, the third for two years, and the fourth for one year, and the fifth member who also shall serve for four years shall be appointed by the four appointee members of such commission and all of such persons shall constitute the recreation commission. Thereafter, the

members of the commission shall be selected in the same manner as the member such person is succeeding and the term of office of each shall be four years. Any member of the recreation commission may be removed from the commission, by the appointing authority, for any cause which would justify removal of an appointive officer of the city. Except for members first appointed to the commission, all commissioners not filling a vacancy shall hold office for a term of four years and until their successors are appointed and qualified. Whenever a vacancy occurs in the membership of the commission, a successor shall be selected to fill such vacancy in the same manner as and for the unexpired term of the member such person is succeeding. The commission shall elect a chairperson and secretary from their membership. The commissioners are hereby empowered to administer in all respects the business and affairs of the recreation system. The treasurer of the city or school district to which is certified the budget of the recreation commission shall serve as ex officio treasurer of the recreation commission. Such treasurer shall keep an accurate record of all money and property received and disbursed and shall make a report thereof monthly to the commission, or as often as the commission requires. Members of the commission and the ex officio treasurer of the commission shall serve without compensation.

**Section 2: Annual budget; hearing; notice; tax levy; increase in levy, subject to protest; annual audit, when required**

The recreation commission shall prepare an annual budget for the operation of the recreation system. Prior to the certification of its budget to the city, the recreation commission shall meet for the purpose of answering and hearing objections of taxpayers relating to the proposed budget and for the purpose of considering amendments to such proposed budget. The recreation commission shall give at least 10 days' notice of the time and place of the meeting by publication in a weekly or daily newspaper having a general circulation in the taxing district. Such notice shall include the proposed budget and shall set out all essential items in the budget except such groupings as designated by the director of accounts and reports on a special publication form prescribed by the director

of accounts and reports and furnished with the regular budget form. The public hearing required to be held herein shall be held not less than 10 days prior to the date on which the recreation commission is required to certify its budget to the city or school district. After such hearing the budget shall be adopted or amended and adopted by the recreation commission. In order to provide funds to carry out the provisions of this act and to pay a portion of the principal and interest on bonds issued pursuant to K.S.A. 12-1774, and amendments thereto, the recreation commission shall annually, not later than August 1 of any year, certify its budget to such city which shall levy a tax sufficient to raise the amount required by such budget on all the taxable tangible property within the taxing district. Each year a copy of the budget adopted by the recreation commission shall be filed with the city clerk. A copy of such budget also shall be filed with the county clerk of the county in which the recreation system is located. The city shall not be required to levy a tax in excess of the maximum tax levy set by the city or school district by current resolution. In the case of a new recreation commission established under the provisions of this act, such levy shall not be required to exceed one mill. Whenever the recreation commission determines that the tax currently being levied for the commission, as previously established by the city, is insufficient to operate the recreation system and the commission desires to increase the mill levy above the current levy, the commission shall request that the city authorize an increase by adopting a resolution declaring it necessary to increase the annual levy. The city may authorize the increase by resolution, but such increase shall not exceed one mill per year. The maximum annual mill levy for the recreation commission general fund shall not exceed a total of four mills.

(b) Any resolution adopted under subsection (a) shall state the total amount of the tax to be levied for the recreation system and shall be published once each week for two consecutive weeks in the official newspaper of the city. Whereupon, such annual levy in an amount not to exceed the amount stated in the resolution may be made for the ensuing budget year and each successive budget year unless a petition requesting an election upon the proposition to increase the tax levy in excess of the current tax levy, signed by at least 5% of the qualified voters of the taxing district, is filed with the county election officer

within 30 days following the date of the last publication of the resolution. In the event a valid petition is filed, no such increased levy shall be made without such proposition having been submitted to and having been approved by a majority of the voters of taxing district voting at an election called and held thereon. All such elections shall be called and held in the manner provided by the general bond law, and the cost of the election shall be borne by the recreation commission. Such taxes shall be levied and collected in like manner as other taxes, which levy the city shall certify, on or before August 25 of each year, to the county clerk who is hereby authorized and required to place the same on the tax roll of the county to be collected by the county treasurer and paid over by the county treasurer to the ex officio treasurer of the recreation commission.

(c) The tax levy provided in this section shall not be considered a levy of such city under any of the statutes of this state, but shall be in addition to all other levies authorized by law.

(d)(1) At any time after the making of the first tax levy pursuant to this act, the amount of such tax levy may be reduced by a majority of the voters of the taxing district voting at an election called pursuant to a petition and conducted in the same manner as that prescribed by subsection (b). The authority of any recreation commission in existence on the effective date of this act or any recreation commission established under the provisions of this act to operate and conduct its activities may be revoked in any year following the third year of its operation by a majority of the voters of the taxing district voting at an election called pursuant to a petition and conducted in the same manner as that prescribed by subsection (b). If the petition submitted is for the purpose of reducing the mill levy, it shall state the mill levy reduction desired. Upon revocation, all property and money belonging to the recreation commission shall become the property of the taxing authority levying the tax for the commission, and the recreation commission shall be dissolved. In the event the authority of a recreation commission is revoked pursuant to this subsection, the taxing authority may continue to levy a tax in the manner prescribed by the petition

language for the purpose of paying any outstanding obligations of the recreation commission which exist on the date such authority is revoked. The authority to levy a tax for this purpose shall continue only as long as such outstanding obligations exist.

(2) If the recreation district whose authority is revoked owns any real property at the time of such revocation, title to such real property shall revert to the taxing authority.

(e) All financial records of the recreation commission shall be audited as provided in K.S.A. 75-1122, and amendments thereto, and a copy of such annual audit report shall be filed with the governing body of the city. A copy of such audit also shall be filed with the county clerk of the county in which the recreation system is located. The cost of each audit shall be borne by the recreation commission

### Section 3: Powers and Duties of the Recreation Commission.

The recreation commission shall have the following powers and duties:

- (a) Make and adopt rules and regulations for the operation of the recreation system;
- (b) conduct the activities of the recreation 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 owners;
- (c) receive any gift or donation from any source;
- (d) receive, accept and administer any money appropriated or granted to it by the state or federal government or any agency thereof;
- (e) purchase insurance. The city to which the recreation commission certifies its budget shall levy an annual tax upon all taxable tangible property within the taxing district in an amount necessary to pay for insurance purchased for those purposes authorized by K.S.A. 75-6111, and amendments thereto, and to pay a portion of the principal and interest on bonds issued pursuant to K.S.A. 12-1774, and amendments thereto, except that no levy shall be made under this subsection which, when coupled with any levy made pursuant to subsection (j), is in excess of one mill without the approval of the city or school district.



Taxes levied pursuant to this subsection shall be in addition to all other taxes authorized or limited by K.S.A. 12-1927, and amendments thereto, or any other provisions of law;

(f) sue and be sued;

(g) enter contracts;

(h) enter lease agreements for real and personal property. The term of any such lease shall not exceed 10 years. Any such lease agreement shall be subject to the approval of the city or school district to which the recreation commission certifies its budget;

(i) employ a superintendent of recreation and any other employees which may be necessary for proper operation of the recreation system;

(j) create and establish employee benefits contribution funds for the purpose of paying the employer's share of any employee benefits, exclusive of any salaries, wages or other direct payments to such employees, as may be prescribed in the resolution creating such funds. The recreation commission may receive and place in such funds any moneys from any source whatsoever which may be lawfully utilized for the purposes stated in the resolution creating such funds, including the proceeds of tax levies authorized by law for such purposes. The city to which is certified the budget of any recreation commission which has established employee benefits contribution funds pursuant to this subsection shall levy an annual tax upon all taxable tangible property within the taxing district in an amount determined by the recreation commission to be necessary for the purposes for which such funds were created and to pay a portion of the principal and interest on bonds issued pursuant to K.S.A. 12-1774, and amendments thereto, except that no levy shall be made under this subsection which, when coupled with any levy made pursuant to subsection (e), is in excess of one mill without the approval of the city. Taxes levied pursuant to this subsection shall be in addition to all other taxes authorized or limited by K.S.A. 12-1927, and amendments thereto, or any other provisions of law. For the purposes of this subsection, employee benefits shall include social security as provided by subsection (c) of K.S.A. 40-2305, and amendments thereto, workers' compensation as provided by K.S.A. 44-505c, and amendments thereto, unemployment compensation as provided by K.S.A. 44-710a, and amendments thereto, health insurance and retirement benefits;

- (k) acquire title to personal property by purchase, bequest, gift or other donation and acquire title to real property by devise, gift or other donation. Whenever property owned by a recreation commission is sold, the proceeds shall be used for recreation purposes;
- (l) make improvements for recreation system purposes; and
- (m) perform any other acts necessary to carry out