

## **TITLE 1**

### **GENERAL PROVISIONS**

Chapters:

- 1.01 Code Adoption
- 1.04 General Provisions
- 1.08 Right of Entry for Inspection
- 1.12 General Penalty
- 1.16 Ward Boundaries
- 1.20 Official Newspaper (Repealed)
- 1.24 Citations for Violations

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## Chapter 1.01 CODE ADOPTION<sup>1</sup>

### Sections:

- 1.01.010 Generally.
- 1.01.020 Publication-Effect.
- 1.01.030 Short Title-Citation-Reference.
- 1.01.040 Reference Applies to Amendments.
- 1.01.050 Title, Chapter and Section Headings.
- 1.01.060 Reference to Specific Ordinances.
- 1.01.070 Supplements Authorized.
- 1.01.080 Effect of Code on Past Actions and Obligations.
- 1.01.090 Effective Date of Code.
- 1.01.100 Ordinance Book Designated.
- 1.01.110 Constitutionality.

### **1.01.010 Generally.**

Pursuant to the provisions of Sections 12-3014 and 12-3015 of Kansas Statutes Annotated, as amended, there is adopted the "Overland Park Municipal Code" as published by Book Publishing Company, Seattle, Washington, together with those secondary codes adopted by reference as authorized by K.S.A. 12-3015, as amended, save and except those portions of the secondary codes as are deleted or modified by the provisions of the "Overland Park Municipal Code." (History: Ord. MC-750 ' 1, 73; Eff. 6-1-73)

### **1.01.020 Publication-Effect.**

Said code, in conjunction with the adopting ordinance codified herein and with a certificate of the City Clerk that said code and ordinance are true and correct copies when published in book form shall import absolute verity and be received in evidence in all courts and places without further proof.

(History: Ord. MC-2288 §1, 2001; MC-750 ' 2, 73; Eff. 6-1-73)

### **1.01.030 Short Title-Citation-Reference.**

This code shall be known as the "Overland Park Municipal Code" and it is sufficient to refer to said code as the "Overland Park Municipal Code" in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal of the "Overland Park Municipal Code." Any such ordinance shall effectively add to, amend, correct or repeal the ordinance section which is the basis for the appropriate code provision. Further reference may be had to the titles, chapters, sections and subsections of the "Overland Park Municipal Code" and such reference shall apply to that numbered title, chapter, section or subsection as it appears in the code.

(History: Ord. MC-750 ' 3, 73; Eff. 6-1-73)

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1. For the statutory provisions regarding compilation, revision and codification of the general ordinances of cities, see K.S.A. 12-3014 *et seq.*

## Chapter 1.01

### **1.01.040 Reference Applies to Amendments.**

Whenever a reference is made to this code as the "Overland Park Municipal Code" or to any portion thereof, or to any ordinance of the city, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made.

(History: Ord. MC-750 ' 4, 73; Eff. 6-1-73)

### **1.01.050 Title, Chapter and Section Headings.**

Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof.

(History: Ord. MC-750 ' 5, 73; Eff. 6-1-73)

### **1.01.060 Reference to Specific Ordinances.**

The provisions of this code shall not in any manner affect deposits or other matters of record which refer to, or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the code, but such reference shall be construed to apply to the corresponding provisions contained within this code.

(History: Ord. MC-750 ' 6, 73; Eff. 6-1-73)

### **1.01.070 Supplements Authorized.**

This code may be kept current and the City Attorney is authorized to prepare and distribute loose leaf supplements to the code from time to time. The supplements may be added to this code by insertion of new pages for omitted sections, amended sections, and new provisions. The City Attorney is further authorized and directed to reprint or republish the code, as supplemented, from time to time and to create and maintain electronic versions of the code, as supplemented, on the City's Internet website and on its Intranet.

(History: Ord. MC-2288 §2, 2001; MC-750 ' 7, 73; Eff. 6-1-73)

### **1.01.080 Effect of Code on Past Actions and Obligations.**

Neither the adoption of this code nor the repeal or amendments of any ordinance or part or portion of any ordinances of the City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee or penalty, on the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect.

(History: Ord. MC-750 ' 8, 73; Eff. 6-1-73)

### **1.01.090 Effective Date of Code.**

This code shall become effective on June 1, 1973, and the City Clerk is directed to date her certificate and cause those things to be done that are set forth in Section 1.01.020 on said date.

(History: Ord. MC-750 ' 9, 73; Eff. 6-1-73)

**1.01.100 Ordinance Book Designated.**

In accordance with K.S.A. 12-3015, as amended, the City Clerk shall designate one of the three copies of the Overland Park Municipal Code in her custody as the "Ordinance Book" of the city. This shall be the master and official version of the codification of ordinances of the City and its text shall control in determining the official text of the Overland Park Municipal Code.

(History: Ord. MC-750 ' 10, 73; Eff. 6-1-73)

**1.01.110 Constitutionality.**

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The Governing Body hereby declares that it would have passed this code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional. If for any reason this entire code should be declared invalid or unconstitutional, then the original ordinance or ordinances as they existed prior to passage of this code shall be in full force and effect.

(History: Ord. MC-750 ' 12, 73; Eff. 6-1-73)

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**Chapter 1.04**  
**GENERAL PROVISIONS**

Sections:

- 1.04.010 Definitions.
- 1.04.020 Grammatical interpretation.
- 1.04.030 Prohibited acts include causing, permitting and related acts.
- 1.04.040 Constriction.
- 1.04.050 Repeal not to revive any ordinances.

**1.04.010 Definitions.**

The following words and phrases whenever used in the ordinances of the city of Overland Park, Kansas, shall be constructed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

1. "City" means the city of Overland Park, Kansas, or the area within the territorial limits of the city of Overland Park, Kansas, and such territory outside of the city over which the city has jurisdiction or control by virtue of any constitutional or statutory provision.
2. "Computation of time" means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day; and if the last day be Sunday or a legal holiday, that day shall be excluded.
3. "Council" means the city council of the city of Overland Park, Kansas. "All its members" or "all councilmen" mean the total number of councilmen provided by the general laws of the state of Kansas.
4. "County" means the county of Johnson, Kansas.
5. "Law" denotes applicable federal law, the Constitution and Statutes of the state of Kansas, the ordinances of the city of Overland Park, and when appropriate, any and all rules and regulations which may be promulgated thereunder.
6. "May" is permissive.
7. "Month" means a calendar month.
8. "Must" and "Shall." Each is mandatory.
9. "Oath" includes an affirmation or declaration in all cases in which, by law, affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" are equivalent to the words "affirm" and "affirmed".

#### Chapter 1.04

10. "Or" may be read "and" and "and" may be read "or" if the sense requires it.
11. "Ordinance" means a law of the city; provided that a temporary or special law, administrative action, order or directive, may be in the form of a resolution.
12. "Owner" applied to a building or land includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.
13. "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.
14. "Personal property" includes money, goods, chattels, things in action and evidences of debt.
15. "Preceding" and "following" mean next before and next after, respectively.
16. "Property" includes real and personal property.
17. "Real property" includes lands, tenements and hereditaments.
18. "Sidewalk" means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians
19. "State" means the state of Kansas.
20. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this city which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.
21. "Tenant" and "occupant," applied to a building or land, includes any person who occupies whole or a part of such building or land, whether alone or with others.
22. Title of Office. Use of the title of officer, employee, board or commission means that officer, employee, department, board or commission of the city.
23. "Written" includes printed, typewritten, mimeographed or multigraphed.
24. "Year" means a calendar year.
25. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may

have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

26. When an act is required by an ordinance the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent.

(History: Ord. MC-2384 §1, 2002; MC-2377 §1, 2002; Added during codification in accordance with K.S.A. 12-3015.)

#### **1.04.020 Grammatical interpretation.**

The following grammatical rules shall apply in the ordinances of the city of Overland Park, Kansas:

1. Gender. Any gender includes the other genders;
2. Singular and Plural. The singular number includes the plural and the plural includes singular;
3. Tenses. Words uses in the present tense include the past and the future tenses and vice versa;
4. Use of Words and Phrases. Words and phrases not specifically defined shall be construed according to the context and approved usage of the language.

(History: Ord. MC-2384 §2, 2002; MC-2377 §2, 2002; Added during codification in accordance with K.S.A. 12-3015.)

#### **1.04.030 Prohibited acts include causing, permitting, and related acts.**

Whenever in this code any act or omission is made unlawful, it includes causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

(History: Added during codification in accordance with K.S.A. 12-3015.)

#### **1.04.040 Construction.**

The provisions of this code and proceedings under it are to be construed with view to effect its objects and to promote justice.

(History: Added during codification in accordance with K.S.A. 12-3015.)

#### **1.04.050 Repeal not to revive any ordinances.**

The repeal of an ordinance shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby.

(History: Added during codification in accordance with K.S.A. 12-3015.)

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**Chapter 1.08**  
**RIGHT OF ENTRY FOR INSPECTION**

Sections:

1.08.010      Regulations generally.

**1.08.010 Regulations generally.**

Whenever it is necessary to make an inspection to enforce any ordinance or resolution, or whenever there is reasonable cause to believe there exists an ordinance or resolution violation in any building or upon any premises within the jurisdiction of the city, any authorized official of the city may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon him by ordinance; provided that, except in emergency situations or when consent of the owner and/or occupant to the inspection has been otherwise obtained, he shall give the owner and/or occupant, if they can be located after reasonable effort, twenty-four hours written notice of the authorized official's intention to inspect. The notice transmitted to the owner and/or occupant shall state that the property owner has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant duly authorized by law. In the event the owner and/or occupant refuses entry after such request has been made, the official is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

(History: Added during codification in accordance with K.S.A. 12-3015).

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**Chapter 1.12**  
**GENERAL PENALTY<sup>1</sup>**

Sections:

1.12.010 Designated.

**1.12.010 Designated.**

Any person convicted of a violation of any of the provisions of or failing to comply with any of the mandatory requirements of the ordinances of the city for which another penalty is not specifically provided is guilty of a public offense and punishable by a fine of not more than five hundred dollars or by imprisonment not to exceed six months, or by both such fine and imprisonment. Each such person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of the city ordinances is committed, continued or permitted by any such person; and he shall be punished accordingly.

(History: Added during codification in accordance with K.S.A. 12-3015). (Ord. POC-625 ' 4, 72)

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1. For statutory provisions indicating that certain sections of K.S.A. 13-101 *et seq.* (mayor-council first class cities) are applicable to cities operating under the commission form, see K.S.A. 13-2904; for statutory provision authorizing a first class city to impose fines, forfeitures and penalties for violation of its ordinances, see K.S.A. 13-424.

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**Chapter 1.16**  
**WARD BOUNDARIES**  
**(This entire chapter has been repealed.)**

Sections:

1.16.010 Division - Boundaries - Renumbering - Boundary adjustment.

**1.16.010 Division - Boundaries - Renumbering - Boundary adjustment.**

Repealed.

(History: Charter Ord. 34 ' 10, 84; Charter Ord. 1 ' 3, 62).

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**Chapter 1.20**  
**OFFICIAL NEWSPAPER<sup>1</sup>**  
**(This entire chapter has been repealed.)**

Sections:

- 1.20.010 Exemption from K.S.A. 13-1420. (Repealed. See Charter Ordinance)
- 1.20.020 Governing body to designate official newspaper. (Repealed. See Charter Ordinance)
- 1.20.030 Official designation. (Repealed. See Charter Ordinance)
- 1.20.040 Official newspaper to have been published for a year. (Repealed. See Charter Ordinance)
- 1.20.050 More than one official newspaper. (Repealed. See Charter Ordinance)

**1.20.010 Exemption from K.S.A. 13-1420.**

Repealed. See Charter Ordinance.

(History: Ord. NEW-1705 §1, 91; Ch. Ord. 15)

**1.20.020 Governing body to designate official newspaper.**

Repealed. See Charter Ordinance.

(History: Ord. NEW-1705 §1, 91; Ch. Ord. 15)

**1.20.030 Official designation.**

Repealed. See Charter Ordinance.

(History: Ord. NEW-1705 §1, 91; Ch. Ord. 15)

**1.20.040 Official newspaper to have been published for a year.**

Repealed. See Charter Ordinance.

(History: Ord. NEW-1705 §1, 91; Ch. Ord. 15)

**1.20.050 More than one official newspaper.**

Repealed. See Charter Ordinance

(History: Ord. NEW-1705 §1, 91; Ch. Ord. 15)

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1. For constitutional home rule provision, see KANSAS CONSTITUTION, Article 12 §5.

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**Chapter 1.24**  
**CITATIONS FOR VIOLATIONS**

Sections:

- 1.24.010 Definitions.
- 1.24.020 Notice to appear.
- 1.24.030 Time specified.
- 1.24.040 Municipal Court.
- 1.24.050 Distribution of notice.
- 1.24.060 Complaint to be filed.
- 1.24.070 Chapter inapplicable to certain violations.

**1.24.010 Definitions.**

- A. "Law enforcement officer" means any person holding a valid police commission issued pursuant to Chapter 2.66.
- B. "Notice to appear" means a written request issued by a law enforcement officer that a person appear before the municipal court at a stated time and place.

(History: Ord. NA-714 §1, 72)

**1.24.020 Notice to appear.**

A law enforcement officer may serve a notice to appear upon any person who commits an act punishable as a violation of city ordinance. Such notice to appear shall contain the name and address of the person, the violation charged, and the time and place when and where such person shall appear in court.

(History: Ord. NA-714 §2, 72)

**1.24.030 Time specified.**

The time specified in such notice to appear must be at least five days after such notice is given unless the person shall demand an earlier hearing.

(History: Ord. NA-714 §3, 72)

**1.24.040 Municipal court.**

The place specified in such Notice to appear must be the Municipal Court of the City of Overland Park, 12400 Foster, Overland Park, Kansas.

(History: Ord. NA-2749 §1, 2008; NA-1105 §1, 81; NA-714 § 4, 72)

**1.24.050 Distribution of notice.**

A copy of the notice to appear shall be delivered to the person who violates a city ordinance and the original of the notice shall be retained by the officer.

(History: Ord. NA-714 §5, 72).

## Chapter 1.24

### **1.24.060 Complaint to be filed.**

The law enforcement officer shall cause to be filed, without unnecessary delay, a complaint in the municipal court charging the ordinance violation stated in the notice. If the person receiving the notice fails to appear at the time and place stated, a warrant may be issued for his arrest.

(History: Ord. NA-714 §6, 72).

### **1.24.070 Chapter inapplicable to certain violations.**

The procedures prescribed by this chapter shall not apply to violation of any ordinance regulating traffic upon the highway of the city or the violation of Title 6, as amended.

(History: Ord. NA-714 §7, 72).

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## **LEGAL BASIS FOR OVERLAND PARK, KANSAS**

The City was incorporated May 20, 1960, as a result of a referendum held on May 17, 1960. The authority for the election and incorporation is found in Chapter 413, Laws of Kansas 1959. This law related to urban class townships, authorized their dissolution, provided for the attachment of part of their territory to existing cities and included the remainder in a city of the first class to be created. This law was later designated as K.S.A. 80-2309 through 80-2323 and was repealed by Chapter 509, Section 12, Laws of Kansas 1963.

The 1959 law designated that the new city created would have the mayor and council form of government, with the councilmen being elected from not less than four contiguous and compact wards (K.S.A. 13-205). The 1959 law also provided, "All ordinances of the urban township in effect at the time of the incorporation of the new city and proper to have been passed by a city of the first class shall continue in effect in the new city until amended or repealed by the governing body of the city."

On November 6, 1962, by special election, the city adopted the provisions of the mayor-council-manager plan now found in K.S.A. 12-1036a through 12-1036h. Thereafter, a number of the provisions of this law were changed by various charter ordinances passed by the city under authority of Article 12, Section 5 of the Kansas Constitution. For the various changes, see the charter ordinances listed in the back.

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