

## **ORDINANCE NO. 1008**

### **AN ORDINANCE ESTABLISHING SECTION 12-116 “SMOKING PROHIBITED” OF THE ROELAND PARK MUNICIPAL CODE**

WHEREAS, the City of Roeland Park, Kansas has the right and authority, by virtue of its home rule powers and Kansas statutory authority, to set and establish various local laws that shall apply to public parks, recreational areas and playgrounds under the City’s ownership and control; and,

WHEREAS, the governing body of the City of Roeland Park, Kansas acknowledges that secondhand tobacco smoke poses a threat to the health, safety and welfare of adults and children; and,

WHEREAS, cigarettes, once consumed in public spaces, are often discarded on the ground which diminishes the beauty of the City’s outdoor recreational facilities, and poses a risk to Roeland Park citizens and the environment; and,

WHEREAS, the governing body of the City of Roeland Park, Kansas desires to promote the public health by making City owned parks and outdoor recreational facilities “tobacco-free zones.”

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ROELAND PARK, KANSAS:

SECTION 1. Section 12-116 “Smoking Prohibited” is hereby established to read as follows:

#### **Sec. 12-116. – Smoking Prohibited**

(a) It shall be unlawful for any person to use any form of tobacco product at or on any city-owned, leased, or operated outdoor recreational facility. This includes, but is not limited to, the City owned public parks defined in Section 12-101, the community center, sports dome, the aquatic center, athletic fields, tennis courts, walking trails, restrooms, spectator or concession areas, and the publicly owned grounds thereon.

(b) “Tobacco Product” includes any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including but not limited to, cigarettes, e-cigarettes, cigars, chewing tobacco, pipe tobacco, and snuff.

(c) Notwithstanding any provision of subsection (a) and (b) to the contrary, “Tobacco Product” does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold for such an approved purpose. Electronic cigarettes have not been approved by the United States Food and Drug Administration.

(d) Penalties. Any person who violates any provision of this Section shall be first asked to stop using Tobacco Product(s) at places prohibited under subsection (a). If a person continues to

use a Tobacco Product at a prohibited place after being asked to stop using the Tobacco Product, that person shall be charged with an ordinance violation of this Section punishable by:

1. A fine not exceeding One Hundred Dollars (\$100.00) plus court costs for the first violation.
2. A fine not exceeding Two Hundred Dollars (\$200.00) plus court costs for a second violation within a one (1) year period of the first violation.
3. A fine not exceeding Five Hundred Dollars (\$500.00) plus court costs for a third or subsequent violation within a one (1) year period of the first violation.
4. Violations of this Section and the Kansas Indoor Clean Air Act, K.S.A. § 21-6109 *et. seq.*, and amendments thereto, shall both be considered prior violations for the purpose of this Ordinance. For the purposes of this Section, the number of violations within a year shall be measured by the date the smoking violations occur.

SECTION 2. This ordinance shall take effect upon its publication, or the publication of a summary thereof, in the official City newspaper but not sooner than 30 days following the date of passage.

Passed by the Governing Body of the City of Roeland Park, Kansas this 1st day of March, 2021.

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Mike Kelly, Mayor

ATTEST:

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Kelley Nielsen, City Clerk

APPROVED AS TO FORM:

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Steven E. Mauer, City Attorney