

ORDINANCE NO. 2023-09-_____

AN ORDINANCE PROHIBITING THE USE OF TOBACCO PRODUCTS, INCLUDING ELECTRONIC SMOKING DEVICES, IN LOVIE WATSON PARK, IN THE CITY OF ARKANSAS CITY, KANSAS.

WHEREAS, the governing body of the City of Arkansas City knowledges that secondhand tobacco smoke poses a threat to the health, safety, and welfare of adults and children; and

WHEREAS, the City of Arkansas City believes that tobacco and e-cigarette use in the proximity of children and adults engaging in or watching outdoor recreational activities at City-owned or operated facilities is detrimental to their health; and

WHEREAS, the U.S. Surgeon General has determined that there is no safe level of exposure to tobacco smoke pollution; and

WHEREAS, electronic smoking devices, more commonly referred to as electronic cigarettes or e-cigarettes, typically contain nicotine, which is highly addictive, has been determined by the FDA to contain detectable levels of known carcinogens and toxic chemicals, and their use (1) often closely resembles and purposely mimics the act of smoking, (2) produces an aerosol or vapor of undetermined and potentially harmful substances, (3) is increasing among both adults and youth, (4) is especially concerning among youth because of the negative impacts of nicotine on the developing adolescent brain, (5) threatens to re-normalize smoking, potentially jeopardizing tobacco control efforts of the past and present, and (6) creates confusion and leads to difficulties enforcing smoking prohibitions; and

WHEREAS, tobacco products, including electronic smoking devices, consumed in outdoor public places are often discarded on the ground as an environmental blight, diminishes the beauty of recreational areas, requiring additional maintenance expenses to clean up, and posing a fire risk as well as risk to human and animal health through potential ingestion and contamination of water sources; and

WHEREAS, the tobacco industry advertises at and sponsors recreational events to foster a connection between tobacco use and recreation; and

WHEREAS, the City believes parents, coaches, leaders, and officials involved in recreation are role models for youth and can have a positive effect on the lifestyle choices they make; and

WHEREAS, the governing body of the City of Arkansas City desires to promote the public health by making the Lovie Watson Park a “tobacco-free zone.”

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

SECTION 1. Tobacco Use is Prohibited in Lovie Watson Park in the City of Arkansas City

- (a) It shall be unlawful for any person to use tobacco or an electronic smoking device at any time within Lovie Watson Park, or within 25 feet of the perimeter boundary of Lovie Watson Park, except to the extent the additional 25-foot area extends onto private property.
- (b) It is not a violation of this ordinance to use sacred tobacco in Lovie Watson Park as part of Native American religious, spiritual, or cultural ceremony or practice.

SECTION 2. Definitions

Electronic Smoking Device means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.

Lovie Watson Park or **Park** means Lovie Watson Park in the City of Arkansas City, Kansas, including all buildings, playgrounds, parking lots, basketball courts, trails, shelters, restrooms and other amenities or facilities located in Lovie Watson Park.

Smoking means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted, heated or activated product containing, made, or derived from nicotine, tobacco, cannabis, or other plant, whether natural or synthetic, that is intended for inhalation. Smoking includes carrying or using an activated electronic smoking device or e-hookah.

Tobacco Product means: 1) any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including, but not limited to, a cigarette, cigar, pipe tobacco, chewing tobacco, snuff, or snus; 2) any electronic smoking device as defined in this ordinance and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or 3) any component, part, accessory, of 1) or 2), whether or not any of these contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, and pipes.

Tobacco Product does not mean drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration (FDA), as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

Tobacco Use or **Use Tobacco** mean the act of smoking or the use of any other tobacco product in any form.

SECTION 3. Compliance and Enforcement

- (a) Signage will be posted at strategic locations in Lovie Watson Park to inform the community and park users about this ordinance. Ash receptacles for the disposal of tobacco products, including, but not limited to, ashtrays or ashcans, will not be permitted in the park.
- (b) City staff, community, and volunteers will be notified about this ordinance through the signage posted at Lovie Watson Park, City Municipal Code, initial local newspaper ordinance publication, and social media communications.
- (c) The success of this ordinance depends on the consideration and cooperation of all. Enforcement of this ordinance is a shared responsibility of City staff and park users. City staff will communicate the policy to event organizers. City staff will also make periodic observations of the park to monitor for compliance and promote awareness of this policy.
- (d) Any individual found violating this ordinance will first be reminded of the policy and asked to comply. Failure to comply with the policy will result in the individual being asked to leave the park.
- (e) City staff found violating this ordinance may be subject to disciplinary action.
- (f) The City of Arkansas City is committed to assisting all persons who use tobacco, including electronic smoking devices, in overcoming nicotine dependency. Persons who violate this ordinance may be referred to Kansas's Tobacco Quitline (KanQuit), 1-800-QUIT-NOW, which is a free tobacco cessation resource.

SECTION 4. Repeal of Conflicting Ordinances

All ordinances or parts of ordinances in conflict herewith are repealed. However, any section or provision of an existing ordinance not in conflict herewith is not repealed and remains in full force and effect.

SECTION 5. Severability

If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other provision of this ordinance that can be given effect without the invalid provision or application. Each invalid provision or application of this ordinance is severable.

SECTION 6. Effective Date

This ordinance, or a summary thereof, shall be published one time in the official City newspaper, and shall take effect and be in force from and after said publication.

PASSED AND ORDAINED by the Governing Body of the City of Arkansas City, Kansas, this 19th day of September, 2023.

(Seal)

Diana L. Spielman, Mayor

ATTEST:

Tiffany Parsons, City Clerk

APPROVED AS TO FORM:

Larry R. Schwartz, City Attorney

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of Ordinance No. 2023-09-_____ of the City of Arkansas City, Kansas adopted by the governing body on September 19, 2023 as the same appears of record in my office.

DATED: _____

Tiffany Parsons, City Clerk