

## **STAFF REPORT**

DATE: February 2, 2022

TO: Governing Body

FROM: City Attorney

RE: Tobacco Free Parks Ordinance

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### **Background:**

After the February 1<sup>st</sup> presentation from Shelley Rich at Tobacco Free Parks, the Mayor requested this item be discussed on our workshop agenda.

*What are the current applicable rules regarding smoking in parks in Bel Aire?*

State law does not generally restrict smoking in outdoor areas such as parks. The *Kansas Indoor Clean Air Act* restricts smoking only in indoor public places and places of work. Kansas law protects the ability of municipalities to adopt measures related to smoking in parks. Currently, Bel Aire does not have any ordinances addressing tobacco in our parks. The local ordinances related to smoking tobacco products all relate to smoking at INDOOR facilities and are located in **Chapter 8.1** of the City Code. **All indoor City facilities are non-smoking.** An owner, operator, or manager (including the City) may declare the ENTIRE establishment, including the outdoor portion non-smoking.

### **Relevant Code Sections:**

Section 8.1.4 Additional Declaration Notwithstanding any other provision of this Article, any owner, operator, manager or other person who controls any establishment described in this Article may declare that entire establishment as a non-smoking establishment. (Ord. 431)

Section 8.1.5 City-Owned Facilities All enclosed facilities owned by the City of Bel Aire shall be non-smoking at all times notwithstanding other provisions of this Article. (Ord. 431)

**Opportunities for regulation:** The City can either pass an ordinance or resolution to address smoking in parks. It would need to include any exemptions, scope of location, and penalties. Enforcement would either happen by the public reporting to City Staff or calling the police when individuals notice a violation. Signage would need to be erected and the public notified about the ordinance before implementation. Penalties may range from ejection from City parks to fines up to \$500. See sample attached adapted from the Arlington, Kansas ordinance.

