

(Summary First Published in the Times-Sentinel
on the ____ day of June, 2018.)

THE CITY OF CHENEY, KANSAS

ORDINANCE NO. 908

AN ORDINANCE PROHIBITING THE USE OF TOBACCO
PRODUCTS AND E-CIGARETTE DEVICES WITHIN
OUTDOOR CITY PARKS AND RECREATIONAL
FACILITIES OF THE CITY OF CHENEY, KANSAS AND
REPEALING ALL CONFLICTING ORDINANCES AND
PARTS OF ORDINANCES OF THE CITY OF CHENEY,
KANSAS

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

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

WHEREAS, secondhand tobacco smoke is responsible for nearly 41,000 deaths among nonsmokers each year; and

WHEREAS, tobacco kills more Americans each year than alcohol, illegal drugs, homicide, suicide, car accidents, fire and AIDS combined; and

WHEREAS, nearly 90% of smokers started smoking before the age of 18, and the average initiation age is 15 years old; and

WHEREAS, every year in Kansas, an estimated 1,500 young people under the age of 18 years become new daily smokers and 61,000 children now under 18 years will die prematurely from smoking; and

WHEREAS, the governing body of the City of Cheney, Kansas desires to promote the public health by making Municipality owned parks, playgrounds and recreational fields "tobacco-free zones."

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHENEY, SEDGWICK COUNTY KANSAS:

Section 1. Tobacco Product and E-Cigarette Use Prohibited in Outdoor Recreational Facilities Within the City of Cheney

(a) It shall be unlawful for any person to use any form of tobacco product or e-cigarette at or on any city-owned, leased, or operated outdoor recreational facility. This includes but is not limited to City Parks defined in 12-112 of the Cheney City Code, playgrounds, athletic fields, aquatic areas, tennis courts, walking trails, restrooms, and spectator or concession areas. Excluded from this prohibition is the Cherry Oaks Golf Course.

(b) Appropriate signage will be posted designating tobacco-free areas.

Section 2. Definition

"Tobacco Product" includes:

(a) 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, cigars, little cigars, chewing, tobacco, pipe tobacco, snuff; and

"E-Cigarette Use" shall be defined as:

(b) the ingestion of nicotine or other substances used in any electronic or battery-powered device/vaporizer that simulated tobacco smoking or vaping by producing an aerosol that resembles smoke, vapor or any component thereof. Any electronic device that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to an electronic cigarette, cigar, pipe, or hookah.

(c) Notwithstanding any provision of subsections (a) and (b) to the contrary, "Tobacco Product" includes any component, part, or accessory of a tobacco product, whether or not sold separately. "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.

Section 3. Penalties

(a) Any person who violates any provision of this Article shall be (1) asked to stop using Tobacco Products at places prohibited under Section 1 of this Ordinance, (2) subject to immediate ejection from such places and (3) guilty of an ordinance tobacco infraction, 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. For the purposes of this subsection, the number of violations within a year shall be measured by the date the smoking violations occur.

(b) Violations of this Article 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.

Section 4. Repeal

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

Section 5. Effective Date

This Ordinance shall take effect and be in force from and after publication in the official city newspaper.

Passed by the City Council this 14th day of June, 2018.

Approved by the Mayor this 14th day of June, 2018.



SEAL

ATTEST:

A handwritten signature in blue ink, appearing to read "Danielle Young", written over a horizontal line.

CITY CLERK/ADMINISTRATOR,
DANIELLE YOUNG

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

MAYOR, LINDA BALL