

ORDINANCE 2024-1

**An Ordinance of the Town of Kansas/Kansas Public Works Authority
Amending the Code of Ordinances of the
Town of Kansas to Provide for the Addition of a Chapter entitled
“Prohibition of Sale of Tobacco Products Within 300 Feet of a School, Playground, Park or
Child/Youth Daycare Facility”; and Providing for Severability and Repealer.**

It is the intent of the Board of Trustees of the Town of Kansas, Delaware County, Oklahoma, in enacting this ordinance, to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of smoking and the use of tobacco and nicotine-containing vapor product use around non-users, especially children; by protecting the public from exposure to secondhand smoke where people work, play, and learn; by reducing the potential for children to wrongly associate tobacco product and vapor product use with a healthy lifestyle; and by affirming and promoting a healthy environment in the Town of Kansas.

Be it ordained by the Board of Trustees of the Town of Kansas, Oklahoma, that Part 8, Health and Sanitation, of the Code of Ordinances of the Town of Kansas, Oklahoma, is hereby amended to add a new Chapter 6, and for said Chapter 6 to read as follows:

CHAPTER 6

PROHIBITION OF SALE OF TOBACCO PRODUCTS WITHIN 300 FEET OF A SCHOOL, PLAYGROUND, PARK OR CHILD/YOUTH DAYCARE FACILITY.

Section 8-601	Definitions.
Section 8-602	Prohibited Conduct.
Section 8-603	Enforcement.
Section 8-604	Statutory Construction and Severability.
Section 8-605	Effective Date.
Section 8-606	Repealer.

Section 8-601 DEFINITIONS

The following words and phrases, whenever used in the Chapter, shall have the meanings defined in this section unless the context clearly required otherwise:

a. *School* means any property, building, permanent structure, facility, auditorium, stadium, arena, or recreational facility owned, leased or under the control of a public school district or private school or any educational facility that is accredited by the state of Oklahoma. *School* includes all licensed childcare facilities, kindergartens, elementary schools, which may include either K-6 or K-8, and all secondary schools. *School* includes any institution within the Oklahoma State System of Higher Education or any other public or private college or university that is accredited by a national accrediting body.

b. *Playgrounds* means any area used for outdoor play or recreation, especially by children, and often containing recreational equipment such as slides and swings.

c. *Tobacco product* means any product that is made from or derived from tobacco, or that contains nicotine, that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. *Tobacco product* also means electronic smoking devices and any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, and liquids used in electronic smoking devices, whether or not they contain nicotine. *Tobacco product* does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

d. *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. *Electronic smoking device* includes any component, part, or accessory of the device, and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine. *Electronic smoking device* does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

Section 8-602 PROHIBITED CONDUCT.

a. The location of a tobacco/e-cigarette store is specifically prohibited within three hundred feet (300') of any playground, school, or other facility when the facility is being used primarily by persons under twenty-one (21) years of age.

b. The distance shall be measured as the shortest straight-line distance from the property line of the proposed tobacco/e-cigarette store to the property line of the entities listed below:

- a) Public or private School;
- b) Playgrounds;
- c) Facility used primarily by persons under twenty-one years of age.

c. No business license shall be issued by the Trustees of the Town of Kansas, Oklahoma to an applicant for the establishing and operation of a tobacco/e-cigarette store or the establishing and operation of a business wherein *tobacco products* and/or *electronic smoking device* as defined herein shall be sold or offered for sale, except at locations permitted by the town's zoning or planning laws.

d. Any currently licensed tobacco/e-cigarette store within three hundred feet (300') of any *school* or *playground* as defined herein is exempt from this amendment to Part 8, Health and Sanitation, of the Code of Ordinances of the Town of Kansas, Oklahoma. If currently licensed tobacco/e-cigarette stores are sold, any new owner would no longer be able to use the grandfathering clause to obtain a license from the Town of Kansas, Oklahoma.

Section 8-603 ENFORCEMENT.

a. Enforcement of this chapter shall be the responsibility of the Town of Kansas Police Department. In addition, any peace officer or code enforcement official may enforce this chapter.

Section 8-604 STATUTORY CONSTRUCTION AND SEVERABILITY.

It is the intent of the Board of Trustees of the Town of Kansas to supplement applicable state and federal law and not to duplicate or contradict such law. The provisions of this ordinance are severable, and the invalidity of any provision of the ordinance shall not affect other provisions of the ordinance, which can be given effect without the invalid provision.

Section 8-605 EFFECTIVE DATE.

All lines set herein shall become effective after 30 days along with publication, without further action by the Mayor and Board of Trustees of the Town of Kansas, Oklahoma, after passage and approval.

Section 8-606 REPEALER.

That all Ordinances or Resolutions or parts of Ordinances or resolutions of the Town of Kansas and the Public Works Authority of the Town of Kansas in conflict herewith are hereby expressly repealed.

READ, CONSIDERED, PASSED, APPROVED at a regular meeting of the Town Board of Trustees of Town of Kansas, Oklahoma at which a quorum was present at a meeting called and held in full compliance with the Oklahoma Open Meeting Act of this 8 day of January, 2023.

TOWN OF KANSAS AND
KANSAS PUBLIC WORKS AUTHORITY

By: Johnita Stonecipher
Johnita Stonecipher, Mayor

ATTEST:

By: Melissa Garcia
Melissa Garcia, Town of Kansas Clerk