



**REQUEST FOR COMMISSION ACTION**  
**CITY OF INDEPENDENCE**  
**July 23, 2020**

**Department** Safety & Code Enforcement/Park & Zoo

**Director Approval** David Cowan/Barb Bewskens

**AGENDA ITEM** Consider a resolution banning tobacco and vaping in all forms from all City-owned property, except for:

1. All properties operated and managed by the Independence Housing Authority but which are titled to the City of Independence;
2. All businesses located at the Independence Municipal Airport on property titled to the City of Independence; and
3. All city streets and rights of way.

**SUMMARY RECOMMENDATION** Approve the resolution.

**BACKGROUND** The City of Independence has received a request from Marci Roberts representing Young Lungs at Play to ban tobacco products and vaping from all City parks. The IHS Resist students hosted an environmental scan at Riverside Park, and the results were presented to the Park Board. The Park Board recommended approval of the proposal.

The City currently follows the State of Kansas law prohibiting smoking in City buildings. By approving this ban, the City would no longer allow tobacco products or vaping on City property, including properties managed by the Independence Recreation Commission and the Independence Public Library. The Recreation Director and Library Director are both supportive of this resolution. The Independence Housing Authority Director has asked that properties that they manage are excluded from the resolution.

The Young Lungs at Play request and City goal is to promote health and maintain smoke-free environments that protect employees and citizens from tobacco smoke and airborne emissions from e-cigarettes and other electronic nicotine delivery systems. Smoking is a known carcinogen, second-hand smoke increases the risk of heart attack by 30%, and smoking bans can reduce the number of heart attacks by as much as 26% per year.

The City of Independence will be working with our employees to provide cessation programs available for those who would like to stop using tobacco products and for those requesting a location to smoke. BCBS will be presenting a presentation to City Employees at the August 6<sup>th</sup> City Health Fair that provides for assistance options to cease tobacco products.

**BUDGET IMPACT** No smoking signage at public spaces \$250.00

**SUGGESTED MOTION** I move that a resolution be adopted banning tobacco and vaping in all forms on City-owned property with exceptions as noted in the resolution.

**SUPPORTING DOCUMENTS**

1. Smoking Ban Resolution
2. Recommendation to Park Board from Young Lungs at Play, including the results of IHS Resist Environmental Scan at Riverside Park.
3. Recommendation from Park Board.
4. Current City Code regarding smoking.

**RESOLUTION NO. 2020-043**

**A Resolution Banning Tobacco and Vaping in  
All Forms On City Owned Property**

*BE IT RESOLVED* by the Governing Body of the City of Independence, Kansas:

**Section 1.** In recognition of the health hazards of tobacco use and vaping, the use of tobacco in all forms and vaping in all forms is hereby banned on all property owned by the City of Independence, Kansas, except the following:

- a. All properties operated and/or managed by the Independence Housing Authority but which are titled to the City of Independence;
- b. All businesses located at the Independence Municipal Airport on property titled to the City of Independence; and
- c. All city streets and rights of way.

**Section 2.** Nothing contained herein shall be construed as modifying the smoking prohibitions found in existing State statutes and City ordinances which ban smoking.

*Adopted by the Governing Body of the City of Independence, Kansas, on the 23<sup>rd</sup> day of July, 2020.*

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LEONHARD CAFLISCH, Mayor

ATTEST:

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DAVID W. SCHWENKER, City Clerk

# Program Description

## Prevent Children's Exposure to Secondhand Smoke

Municipalities, school districts, youth sports organizations and other groups are invited to join the Kansas Department of Health and Environment (KDHE) in eliminating children's exposure to secondhand smoke at public parks and playgrounds. Policy initiatives are key strategies in influencing community norms and are effective ways to limit exposure to the dangers of secondhand smoke. This initiative protects the environment and protects the health of all. KDHE will support you as you work to create tobacco-free parks and playgrounds.

### *Young Lungs at Play! Resources:*

The *Young Lungs at Play!* Toolkit will provide sample ordinance and policy language, sample press releases, and information on how to address common questions about tobacco-free policies in outdoor public areas. In addition, local resources such as health department staff, youth groups, and KDHE may be available to help provide information and support as you work to pass your policy.

### *Young Lungs at Play! Signs:*

After you implement a local 100% tobacco-free ordinance or policy that covers outdoor public areas, such as parks, playgrounds, hiking trails and sports arenas, KDHE has a supply of standard pre-imprinted 12" x 18" metal signs to place in your tobacco-free area(s). The policy/ordinance should include:

- A statement that all forms of tobacco use and electronic smoking devices are prohibited;
- And an enforcement plan.

Submit a request for free *Young Lungs at Play!* signs by sending a copy of your approved policy to KDHE at

[https://www.surveymonkey.com/r/tobacco\\_free\\_signs](https://www.surveymonkey.com/r/tobacco_free_signs)

For more information about *Young Lungs at Play!* visit the website

[http://www.kdheks.gov/tobacco/young\\_lungs.htm](http://www.kdheks.gov/tobacco/young_lungs.htm)

or contact: [KSsmokefree@ks.gov](mailto:KSsmokefree@ks.gov)



# Step 2: LEARN

# Fact Sheet

## Tobacco-Free Parks and Playgrounds Are Important

Many communities in Kansas have instituted outdoor tobacco-free ordinances at parks, zoos, athletic fields, playgrounds, trails and even city sidewalks and streets as a way to protect both children and the environment.

## Tobacco-Free Parks Are Clean Parks

**Cigarette butts are the most littered item in the world.<sup>1</sup>**

Discarded cigarettes and other forms of tobacco are toxic, hazardous to the environment and costly to clean up. Cigarette butts are not biodegradable. Small children and animals are at risk of swallowing, choking, or burning themselves with discarded butts and poisoning themselves with the drug nicotine. Tobacco waste makes parks and playgrounds look dirty and uninviting. Tobacco-free parks provide children with clean and healthy places to play.



*Youth in Sedgwick County participated in a parks tobacco litter cleanup in 2017. Orange flags indicate collected litter. More than 280 cigarette butts and other tobacco materials were collected within an hour, most concentrated next to play equipment and at the playground perimeters.*

## Children Imitate Adult Behaviors

Every year in Kansas, nearly 1,200 children under 18 years old become new daily smokers.<sup>2</sup> How do children learn to walk? To talk? To play sports? From adults! When children see adults smoking in family-friendly places such as parks and playgrounds, they see the behavior as acceptable. Parks are about clean air, natural beauty and engaging in healthy activities. Smoking just doesn't fit in.

<sup>1</sup> Novotny TE, Zhao F. Consumption and production waste: another externality of tobacco use. *Tob Control*. 1999 Spring;8(1):75-80.

<sup>2</sup> The Toll of Tobacco in Kansas, Campaign for Tobacco Free Kids, Last updated November 15, 2018

## Children Are Hurt by Secondhand Smoke!

Exposure to secondhand smoke has been estimated to result in more than 41,000 annual deaths<sup>3</sup> in the United States and causes health problems in children including more frequent and severe asthma attacks, ear infections and sudden infant death syndrome.<sup>4</sup>

Secondhand smoke contains more than 7,000 chemicals known to be harmful or carcinogenic (cancer-causing), including formaldehyde, cyanide, carbon monoxide, ammonia, and nicotine.<sup>5</sup> The Environmental Protection Agency classifies secondhand smoke as a class-A carcinogen: a substance known to cause cancer in humans and many serious illnesses in children.<sup>6</sup>

**Children who are exposed to secondhand smoke are inhaling many of the same cancer-causing substances as smokers.** There is no risk-free level of secondhand smoke exposure. The only way to fully protect yourself and your loved ones from the dangers of secondhand smoke is through 100% smoke-free environments.<sup>5</sup>

## Tobacco-Free Outdoor Areas

Most Kansas adults, about 83%, **DO NOT** smoke.<sup>7</sup> Tobacco-free policies that restrict tobacco use where children play help protect the health of all community members. Tobacco-free policies are public park policies similar to those prohibiting alcohol use or littering in public parks and are largely self-enforcing.

Posting adequate signage provides an opportunity to educate the community about the tobacco-free policy and allows individuals to handle tobacco use in the same manner as an alcohol or litter complaint that may occur at these facilities.

Help to prevent children's exposure to secondhand smoke at outdoor public play places. Supporting a tobacco-free ordinance in your city will make a difference in the health and welfare of all community members.



**To request *Young Lungs at Play!* signs, or for a sample ordinance, please contact: [KSSmokefree@ks.gov](mailto:KSSmokefree@ks.gov)**

<sup>3</sup> U.S. Department of Health and Human Services. The Health Consequences of Smoking—50 Years of Progress. A Report of the Surgeon General. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014 [accessed 2016 Nov 17].

<sup>4</sup> Centers for Disease Control and Prevention. Health Effects of Secondhand Smoke. [https://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/secondhand\\_smoke/health\\_effects/index.htm](https://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/health_effects/index.htm)

<sup>5</sup> U.S. Department of Health and Human Services. The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.

<sup>6</sup> U.S. Environmental Protection Agency. Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders. Washington, D.C.: Office of Health and Environmental Assessment, Office of Research and Development, U.S. Environmental Protection Agency, 1992.

<sup>7</sup> 2017 Kansas Behavioral Risk Factor Surveillance System, Bureau of Health Promotion, Kansas Department of Health and Environment.

# Step 3: ACTION

# Sample Policy

## *[City/County]*-Owned Outdoor Recreational Areas Tobacco-Free Policy

### Section 1: Purpose

- 1.1. The *[City/County]* is committed to providing safe and healthy environments.
- 1.2. Tobacco use is the leading cause of preventable death and disease in the U.S.
- 1.3. Exposure to secondhand smoke has negative health impacts and the U.S. Surgeon General has determined there is no risk-free level of exposure to secondhand smoke.
- 1.4. Electronic nicotine delivery devices, more commonly referred to as electronic cigarettes or e-cigarettes, typically contain nicotine, which is highly addictive and can harm the developing brain of adolescents. E-cigarette use: (1) is increasing nationally among youth; (2) produces an aerosol or vapor that can contain harmful and potentially harmful substances, such as nicotine, ultrafine particles, flavoring, volatile organic compounds, cancer causing chemicals and heavy metals including nickel, tin, and lead; and (3) threatens to re-normalize smoking, potentially jeopardizing tobacco control efforts of the past and present.
- 1.5. Cigarettes consumed in outdoor public places are often littered, diminishing 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.
- 1.6. Tobacco-free environments establish non-use of tobacco as a norm for children and young adults and offer opportunities for positive role modeling by adults.
- 1.7. The *[City/County]* believes tobacco use is detrimental to the public's health and has determined that prohibiting the use of tobacco products and electronic nicotine delivery devices in all *[City/County]* recreational areas serves to protect the public's health, safety and welfare.

### Section 2: Definitions

- 2.1. **All times** means 24 hours a day, seven days a week.
- 2.2. **Electronic nicotine delivery system (ENDS)** means any product delivering nicotine, nicotine salts, or any other substance that can be used by a person to simulate smoking through inhalation of aerosol or vapor from the product. The term includes, but is not limited to, any electronic cigarette, cigar, cigarillo, pipe, or personal vaporizer.

2.3. **Recreational areas** means all facilities, parks, trails, open space, and other property owned, leased, rented, contracted, used, or controlled by [City/County] for parks and recreational purposes. The term includes, but is not limited to, restrooms, spectator and concession areas, playgrounds, athletic fields, beaches, and aquatic areas.

2.4. **Smoke or smoking** means inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other tobacco or plant product, or inhaling or exhaling aerosol or vapor from any electronic nicotine delivery system. Smoking includes being in possession of a lighted or heated cigar, cigarette, pipe, any other tobacco or plant product intended for inhalation, or an electronic nicotine delivery system that is turned on or otherwise activated.

2.5. **Tobacco or tobacco product** means any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product including but not limited to cigarettes; cigars and other smoking tobacco; snuff and other chewing tobacco; electronic nicotine delivery systems; and any other kinds and forms of tobacco. The term excludes any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

2.6. **Tobacco use** means the act of smoking, the use of electronic nicotine delivery system, the use of smokeless tobacco, or the use of any other tobacco product in any form.

### **Section 3: Policy**

3.1. Tobacco use is prohibited at all times in or on all recreational areas.

3.2. It is not a violation of this policy to use tobacco in or on recreational areas as part of a Native American spiritual or cultural ceremony. Approval from [City/County] administration must be requested and received prior to the ceremony.

### **Section 4: Enforcement**

4.1. Signage will be posted at strategic locations to inform the community and recreational area users about the policy.

4.2 [City/County] staff and volunteers will be notified about this policy through the employee manual.

4.3 The success of this policy depends on the consideration and cooperation of all. Enforcement of the policy is a shared responsibility of [City/County] staff and recreational area users. [City/County] staff will communicate the policy to event organizers. [City/County] staff will also make periodic observations of recreational areas to monitor for compliance.

4.4 Any individual found violating this policy will be reminded and asked to comply before being subject to ejection from the recreational area. [City/County] staff found violating this policy may be subject to disciplinary action.

**Section 5: Effective Date**

This policy is effective on *[effective date]*.

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Appropriate [City/County] Official

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Date

# Step 3: ACTION

# Sample Ordinance

[Ordinance No. Year]

**AN ORDINANCE OF THE [CITY/COUNTY] OF [CITY/COUNTY NAME], AMENDING THE [CITY/COUNTY NAME] MUNICIPAL CODE TO REGULATE TOBACCO PRODUCT USE AND SMOKING.**

The [City or County Governing Body] does hereby find that:

**WHEREAS**, the [City or County Governing Body] acknowledges that secondhand tobacco smoke and e-cigarette vapor 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 smoke is responsible for more than 41,000 deaths among nonsmokers each year; and

**WHEREAS**, nearly 90% of smokers started smoking before the age of 18 years old; and

**WHEREAS**, every year in Kansas, an estimated 1,200 young people under the age of 18 years become new daily smokers and 61,000 children now under 18 years old will die prematurely from smoking; and

**WHEREAS**, the smoking of tobacco, hookahs, or marijuana and the use of electronic nicotine delivery devices are forms of air pollution and constitute both a danger to health and a material public nuisance.

**ACCORDINGLY**, the [City or County Governing Body] finds and declares that the purposes of this ordinance are:

(1) to protect the public health and welfare by prohibiting smoking in outdoor places of employment and outdoor public places where nonsmokers are likely to be exposed to secondhand smoke; and

(2) to guarantee the right of nonsmokers to breathe smoke-free air, and to recognize that the need to breathe smoke-free air shall have priority over the desire to smoke; and

(3) to decrease the exposure of individuals, and children in particular, to secondhand smoke in their outdoor environment.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the [City or County Governing Body] and it is hereby ordained and enacted by the authority of the same as follows:

## Section 1: DEFINITIONS

The following words and phrases, whenever used in this [article/chapter], shall have the meanings defined in this section unless the context clearly requires otherwise:

- A. "Electronic Nicotine Delivery Device" means any product delivering nicotine, nicotine salts, or any other substance that can be used by a person to simulate smoking through inhalation of aerosol or vapor from the product. The term includes, but is not limited to, any electronic cigarette, cigar, cigarillo, pipe, or personal vaporizer.
- B. "Hookah" means a water pipe and any associated products and devices which are used to produce fumes, smoke, and/or vapor from the burning of material including, but not limited to, tobacco, shisha, or other plant matter.
- C. "Playground" means any park or recreational area designed in part to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds or on [City or County] grounds.
- D. "Public Event" means an event which is open to and may be attended by the general public, including but not limited to, such events as concerts, fairs, farmers markets, festivals, parades, performances, and other exhibitions, regardless of any fee or age requirement.
- E. "Public Place" means an area to which the public is invited or in which the public is permitted.
- F. "Recreational Area" means any public or private area open to the public for recreational purposes, whether or not any fee for admission is charged, including but not limited to, amusement parks, athletic fields, beaches, fairgrounds, gardens, golf courses, parks, plazas, skate parks, swimming pools, trails, and zoos.
- G. "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, hookah, or any other lighted or heated tobacco or plant product intended for inhalation, including marijuana, whether natural or synthetic, in any manner or in any form. "Smoking" includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Article.

## Section 2: PROHIBITIONS

- A. Smoking/tobacco use shall be prohibited on all outdoor property owned, leased, or operated by the *[City or County]* of *[City/County Name]*.
- B. Smoking/tobacco use shall be prohibited in the following outdoor public places:
  - i. In outdoor arenas, stadiums, and amphitheaters;
  - ii. In outdoor recreational areas, including parking lots;
  - iii. All outdoor playgrounds;
  - iv. In, and within *[recommended 15-25]* feet of all outdoor public events;
  - v. Within twenty (20) feet of the boundary of any playgrounds and outdoor athletic facilities owned and maintained by the city where members of the general public of any age assemble to engage in physical exercise, participate in athletic competition, play or participate in recreational activity, witness sports, or other outdoor recreational events.

## Section 3: ENFORCEMENT

- A. Signage shall be posted at all outdoor property owned and operated by *[City or County]*.
- B. A person who is found to have violated the provisions of this Article shall be guilty of an infraction, punishable by a fine not exceeding *[Fine]*.
- C. At the judge's discretion, the judge may suspend the fine in lieu of attendance by the offender, at his or her own expense, in a smoking cessation program recommended by the local health department including the dangers of smoking, tobacco use and secondhand smoke.



# TOBACCO-FREE PARKS POLICIES IN KANSAS



## Why Have Tobacco-Free Parks?

In the last few years, many Kansas communities have adopted policies to restrict commercial tobacco use in parks and other outdoor areas. There are many reasons to have such policies in place. Studies have demonstrated that secondhand smoke poses a health risk not just in indoor areas, but also outdoor areas.<sup>1</sup> Tobacco-free park policies can help model healthy behaviors for youth. In addition, such policies can help address a serious environmental problem caused by cigarette butts and other tobacco litter.<sup>2</sup> Finally, there is public support for such policies.<sup>3</sup>

## Kansas State Law

State law does not generally restrict smoking in outdoor areas such as parks. As its name implies, the Kansas Indoor Clean Air Act restricts smoking only in indoor public places and places of work, with the exception of the “access points” of those areas.<sup>4</sup> State law defines an “access point” as “the area within



a ten foot radius outside of any doorway, open window or air intake leading into” areas where smoking is prohibited.<sup>5</sup> While this might restrict smoking immediately outside of park buildings, it does not apply throughout a park. Fortunately, Kansas law protects the ability of local units of government to adopt stronger measures to protect people from secondhand smoke.<sup>6</sup> Many local jurisdictions in Kansas have adopted such policies, as seen on page 3.



## Policy Elements

When considering a tobacco-free parks policy, you will need to determine what products are prohibited, where they will be prohibited, and what form the policy will take. Some tobacco-free park policies apply only to combustible tobacco products, such as cigars, pipes, and conventional cigarettes. Other policies go further and also prohibit the use of smokeless tobacco and electronic cigarettes.

Kansas tobacco-free policies also vary in the type of outdoor areas they cover. Some policies apply only to playgrounds. In contrast, other policies are comprehensive and apply to all outdoor areas owned by a city.

Finally, the policies can vary in terms of the forms they take. The most “official” policies are ordinances passed by an elected body such as a city council. These can be enforced through monetary penalties. Others are resolutions that may express the sentiment of a city council, but do not affirmatively prohibit tobacco use. Finally, some are policies passed administratively — for example, by the park department supervisor — that may lack formal enforcement procedures.

Please see the chart below for a list of tobacco-free parks policies in Kansas. This list is not meant to be comprehensive.

## Park Policies

 PROHIBITED

 DISCOURAGED

 NOT PROHIBITED

 POSSIBLY ALLOWED

Jurisdiction	Product Status	Location	Exemptions	Penalty	Policy Type
<b>Atchison County</b>	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	County recreation facilities	None	Ejection	<u>Resolution</u>
<b>Arlington</b> RENO COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	All city-owned property	None	Ejection	<u>Ordinance</u>
<b>Atchison</b> ATCHISON COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	Within 25' of a playground	None	Not specified	Ordinance
<b>Buffalo</b> WILSON COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	Park at corner of Elm & Church Streets	None	Not specified	<u>Policy</u>
<b>Buhler</b> RENO COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	City-owned land and facilities	None	Possible ejection	<u>Policy</u>
<b>Cheney</b> SEDGWICK COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	City-owned outdoor recreation facilities	Cherry Oaks Golf Course	Ejection, graduated fines	<u>Ordinance</u>
<b>Emporia</b> LYON COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	Within 20' of city-owned playgrounds	Golf courses, disc golf courses	Ejection	<u>Ordinance</u>
<b>Eudora</b> DOUGLAS COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	City-owned outdoor recreation facilities	None	Ejection	<u>Ordinance</u>
<b>Fredonia</b> WILSON COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	City-owned outdoor recreation facilities	Allowed events	Ejection	<u>Resolution</u>
<b>Garden City</b> FINNEY COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	City-owned playgrounds	None	Not specified	<u>Ordinance</u>

## Park Policies

 PROHIBITED

 DISCOURAGED

 NOT PROHIBITED

 POSSIBLY ALLOWED

Jurisdiction	Product Status	Location	Exemptions	Penalty	Policy Type
<b>Great Bend</b> BARTON COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	Recreation Commission-owned outdoor recreation facilities	None	Ejection	<a href="#">Recreation Commission Policy</a>
<b>Haven</b> RENO COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	City-owned outdoor recreation facilities	None	\$50 fine	<a href="#">Ordinance</a>
<b>Hiawatha</b> BROWN COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	City-owned parks & playgrounds	None	Not specified	<a href="#">Ordinance</a>
<b>Highland</b> DONIPHAN COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	All city parks	None	Misdemeanor	<a href="#">Ordinance</a>
<b>Humboldt</b> ALLEN COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	Spectator seating at specified locations	Designated parking areas	Not specified	<a href="#">Resolution</a>
<b>Hutchinson</b> RENO COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	City parks	None	Possible ejection	<a href="#">Park Department Policy</a>
<b>Iola</b> ALLEN COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	Riverside Park	Designated areas	Not specified	<a href="#">Ordinance</a>
<b>Junction City</b> GEARY COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	City-owned outdoor recreation facilities	Designated areas	Compliance requested	<a href="#">Resolution</a>
<b>Kinsley</b> EDWARDS COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	Within 25' of a playground	None	Not specified	<a href="#">Resolution</a>
<b>Lawrence</b> DOUGLAS COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	Park Department property	None	Not specified	<a href="#">Park Department Policy</a>

## Park Policies

PROHIBITED

DISCOURAGED

NOT PROHIBITED

POSSIBLY ALLOWED

Jurisdiction	Product Status	Location	Exemptions	Penalty	Policy Type
<b>Lecompton</b> DOUGLAS COUNTY	COMBUSTIBLE TOBACCO SMOKELESS TOBACCO E-CIGARETTES	City parks	None	Not specified	<u>Resolution</u>
<b>Lenexa</b> JOHNSON COUNTY	COMBUSTIBLE TOBACCO SMOKELESS TOBACCO E-CIGARETTES	Specified city-owned properties & within 15' of those areas	None	Graduated fines	<u>Smoke-Free Ordinance</u>
<b>Liberal</b> SEWARD COUNTY	COMBUSTIBLE TOBACCO SMOKELESS TOBACCO E-CIGARETTES	Cooper Clark Park, Liberal Memorial Library grounds	None	Graduated fines	<u>Ordinance</u>
<b>Lyndon</b> OSAGE COUNTY	COMBUSTIBLE TOBACCO SMOKELESS TOBACCO E-CIGARETTES	City parks	Lawful parking areas	\$250 fine	<u>Ordinance</u>
<b>Neodesha</b> WILSON COUNTY	COMBUSTIBLE TOBACCO SMOKELESS TOBACCO E-CIGARETTES	City-owned outdoor recreation facilities	Designated parking areas	Asked to comply	<u>Resolution</u>
<b>Nickerson</b> RENO COUNTY	COMBUSTIBLE TOBACCO SMOKELESS TOBACCO E-CIGARETTES	City-owned outdoor recreation facilities	None	Not specified	<u>Ordinance</u>
<b>Ottawa</b> FRANKLIN COUNTY	COMBUSTIBLE TOBACCO SMOKELESS TOBACCO E-CIGARETTES	Park areas where children are present	Possibly "voluntary smoking areas"	None	<u>"Voluntary" resolution</u>
<b>Princeton</b> FRANKLIN COUNTY	COMBUSTIBLE TOBACCO SMOKELESS TOBACCO E-CIGARETTES	Park grounds & facilities managed by Recreation Board	None	Ejection	<u>Recreation Commission Policy</u>

## Park Policies

 PROHIBITED    
  DISCOURAGED    
  NOT PROHIBITED    
  POSSIBLY ALLOWED

Jurisdiction	Product Status	Location	Exemptions	Penalty	Policy Type
<b>Sabetha</b> BROWN/NEMAHA COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	City-owned parks, playgrounds & recreation areas	Sabetha City Lake, Pony Creek Lake	Graduated fines	<u>Ordinance</u>
<b>South Hutchinson</b> RENO COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	City-owned outdoor recreation facilities	None	Ejection, \$50 fine	<u>Ordinance</u>
<b>Westwood Hills</b> JOHNSON COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	City's public outdoor green space known as The Green	None	Not specified	Ordinance
<b>Williamsburg</b> FRANKLIN COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	City-owned outdoor recreation facilities	None	Ejection	<u>Resolution</u>
<b>Woodbine</b> DICKINSON COUNTY	 COMBUSTIBLE TOBACCO  SMOKELESS TOBACCO  E-CIGARETTES	City-owned park land, park facilities, & open space	None	Not specified	<u>Policy</u>

## Drafting Your Policy

When drafting your policy, keep the following considerations in mind:

- **Include community-specific findings.** The policy should include community-specific findings, such as the results of cigarette butt cleanup projects or tobacco sales rates in your community.
- **Limit exemptions.** Exemptions can undermine the purpose of a law and complicate enforcement. For example, an exemption for designated smoking areas can confuse people visiting the park by making them think that smoking is allowed throughout the park.
- **Consider implementation.** Educate the public about a tobacco-free parks policy before it goes into effect. Use signage to notify the public of the new policy. The Kansas Department

of Health and Environment may provide tobacco-free signage at no cost to communities that have adopted tobacco and smoke-free policies.

- **Consider enforcement.** Determine the appropriate level of enforcement and procedure. Enforcement could be as simple as informing those violating the policy they are not in compliance, or it could be stronger, such as ejecting violators or levying monetary fines.

## Additional Resources

The Public Health Law Center and the Kansas Department of Health and Environment Tobacco Use Prevention Program have resources that might be useful as you contemplate a tobacco-free parks policy in your community.

- Tobacco-Free Outdoor Areas. A web site featuring resources related to tobacco-free outdoor areas.
- Kansas-Specific Resources. A web site featuring resources on public health laws and policies in Kansas.
- Young Lungs at Play Toolkit. The 2018 Young Lungs at Play Toolkit contains materials to help you establish a tobacco-free park or playground.

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This publication was prepared by the Tobacco Control Legal Consortium, a program of the Public Health Law Center at Mitchell Hamline School of Law, St. Paul, Minnesota, and was made possible with support from the Kansas Department of Health and Environment and Blue Cross Blue Shield of Kansas.

The Public Health Law Center provides information and legal technical assistance on issues related to public health. The Center does not provide legal representation or advice. This document should not be considered legal advice.

## Endnotes

- 1 See, e.g., Xisca Sureda et al., *Secondhand Tobacco Smoke Exposure in Open and Semi-Open Settings: A Systematic Review*, 121 ENVIRONMENTAL HEALTH PERSPECTIVES 766 (2013), <https://ehp.niehs.nih.gov/doi/pdf/10.1289/ehp.1205806>.
- 2 See, e.g., Kathleen M. Register, *Cigarette Butts as Litter — Toxic as Well as Ugly*, <http://www.longwood.edu/cleanva/ciglit-terarticle.htm>.
- 3 See, e.g., Tobacco Free Youth Recreation, University of Minnesota Tobacco-Free Parks and Recreation Research Study, <http://www.tobaccofreeparks.org/research.html>.
- 4 Kan. Stat. Ann. § 21-6110(a) (2017).
- 5 Kan. Stat. Ann. § 21-6109(a) (2017).
- 6 Kan. Stat. Ann. § 21-6114 (2017).

**RESOLUTION NO. R-19-37**

**A RESOLUTION TO APPROVE THE CITY OF COFFEYVILLE PUBLIC SERVICE DEPARTMENT TOBACCO-FREE PARKS POLICY.**

WHEREAS, secondhand smoke poses a health risk not just in indoor areas, but also outdoor areas, and

WHEREAS, tobacco products and associated smoking delivery devices used in proximity of children, youth and adults engaging in or watching recreational activities in unhealthy and detrimental to the health of others; and

WHEREAS, parks are healthy places for youth, families and community; and

WHEREAS, the City of Coffeyville Public Service Department is committed to the quality of life for all residents.

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners of the City of Coffeyville, Kansas that the Mayor be and is hereby authorized and directed to execute the Public Service Department Tobacco-Free Parks Policy to be effective July 1, 2019.

ADOPTED THIS 11th day of June, 2019.



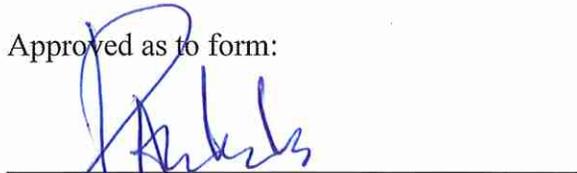
Paul Bauer, Mayor

Attest:



Cindy Price, City Clerk

Approved as to form:



Paul Kritz, City Attorney





## Public Service Department

# TOBACCO-FREE PARKS POLICY

### Policy Statement

The City of Coffeyville, Public Service Department is committed to the quality of life for all residents, therefore we believe that:

1. Tobacco products and associated smoking delivery devices used in proximity of children, youth and adults engaging in or watching recreational activities is unhealthy and detrimental to the health of others.
2. Parks are healthy places for youth, families and community. CPSD has a unique opportunity to create and sustain an environment that discourages tobacco use and promote a positive role model for youth.
3. Smoke free parks reduce litter and pollution. Tobacco products once consumed in public spaces are often discarded on the ground thus posing a risk of ingestion by toddlers, pets and wildlife and causing a land and water pollution problem.

### Tobacco-Free Facilities

The City of Coffeyville, Public Service Department does not allow the use of tobacco products or smoking delivery devices on CPSD operated, programmed or leased lands including but not limited to, park and recreation facilities, athletic fields, dugouts, sidelines and bleachers, dog parks, cemeteries, open spaces, hiking/biking trails, pools, park shelters, playgrounds, restrooms and concession stands. Special emphasis given to youth and children playgrounds.

### Definitions

Smoking delivery devices are defined to include but are not limited to any lighted, unlighted or electronic cigarette, cigarillo, cigar, pipe, hookah or vape pen device that delivers tobacco products, nicotine or other substances to the person from the device, and any cartridge or other component of the smoking device or related product.

Tobacco products include any smokeless, spit or spit-less, dissolvable, absorbable, inhaled, exhaled or snorted products that consist of natural or synthetic vegetation, chemicals or derivatives, herbs, and all tobacco, nicotine or other lighted or vaporized substances. This definition of tobacco products does not include drugs, devices, or combination products (e.g. over-the-counter skin patches, chewing gum, lozenges or other prescription-only nicotine replacement products) approved for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

**Commitment to Compliance**

Appropriate signage will be purposefully placed targeting areas with greatest public gathering with emphasis at youth and children playgrounds. Internal and external user groups, organizations and individuals that utilize CPSD facilities will be asked to commit to enforcing this policy and educate their coaches, officials, volunteers, participants, invitees and spectators. Public Service staff will periodically observe areas for compliance and take opportunities to provide ongoing community education.

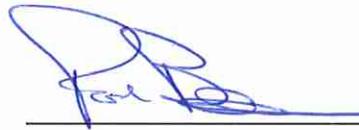
**Adaption and Implementation**

Policy Recommendation Date: June 11, 2019

Policy Adoption Date: Coffeyville City Commission June 11, 2019

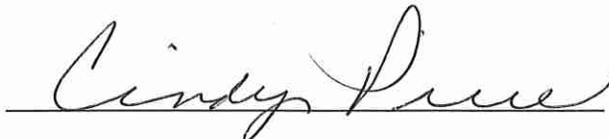
Policy Implementation Date: July 1, 2019

Adopted this 11<sup>th</sup> day of June, 2019.



Paul Bauer, Mayor

ATTEST:



Cindy Price, City Clerk





# SMOKE-FREE POLICIES IN KANSAS PUBLIC HOUSING



## The Issue

Adopting smoke-free policies in multi-unit housing has many benefits. These benefits include: a healthier, cleaner, and safer living and work environment; reduced risk of fire and smoke-related property damage; cost savings because of lower cleaning expenses and reduced insurance premiums; fewer complaints from residents; and market demand.

Because of these benefits, several laws and policies limit smoking in Kansas public housing authorities (PHAs). However, these laws and policies may use different terminology and may apply to different settings. Additionally, some public housing residents may not experience the benefits of smoke-free living until mid-year 2018. As a result, not everyone who



lives in public housing in Kansas is experiencing the full benefits of strong smoke-free protections. Consequently, Kansas PHAs may wish to consider adopting their own comprehensive smoke-free policy that provides protections over and beyond the U.S. Department of Housing and Urban Development's (HUD) final rule to restrict smoking in public housing. This fact sheet is intended to be a resource for Kansas PHAs considering such policies but should not be considered lobbying or advice from an attorney that can represent you.

## Existing Laws

HUD's final rule to restrict smoking in public housing went into effect on February 3, 2017. This rule requires PHAs administering public housing to adopt a smoke-free policy by July 30, 2018. The policy must prohibit the use of "prohibited tobacco products" in all indoor areas, including individual living units, common areas, administrative office buildings, and outdoor areas within 25 feet of those areas. The rule does not apply to section 8 properties, mixed-finance properties, or tribal housing and does not prohibit the use of electronic cigarettes. These are minimum requirements, and PHAs are allowed to go beyond the requirements of the HUD rule.

The Kansas Indoor Clean Air Act also restricts smoking in several locations that may be owned or administered by PHAs. Under this law, smoking is prohibited in "restrooms, lobbies, hallways and other common areas in public and private buildings, condominiums and other multiple-residential facilities." Smoking is prohibited in many other areas that can be found in public housing, including offices, stairwells, elevators, and "within a ten foot radius outside of any doorway, open window or air intake" of an area where smoking is prohibited. This law does not apply to private residences and does not prohibit the use of electronic cigarettes. As a result of these provisions, Kansas PHAs must prohibit smoking in common areas of any multi-unit housing complex and within ten feet of interior areas.

Finally, many Kansas PHAs already have their own smoke-free policies in place. The American for Nonsmokers' Rights Foundation (ANRF) has identified eleven Kansas PHAs with policies that restrict smoking to some extent. HUD has created a similar list that identifies fifteen Kansas PHAs. According to ANRF, the PHAs in Belleville, Douglas County, Junction City, Kinsley, Lawrence, and South Hutchinson are identified as having all units smoke-free. It is important to note that just because a PHA has a smoke-free policy in place does not mean it is compliant with the HUD rule. For example, if a PHA had a 15-foot setback rather than a 25-foot setback, it would not be compliant.



## Going Further

Kansas PHAs can consider going further than the requirements of the HUD rule and the Kansas Indoor Clean Air Act by including electronic cigarettes and outdoor spaces. Kansas law specifically permits city and county governments to adopt stronger smoke-free laws. If a PHA were not willing to declare the entire grounds to be smoke-free, it could consider declaring some outdoor areas to be smoke-free. These could include playgrounds, swimming pools, or other areas that might be frequented by children. Additionally, many PHAs also administer other types of subsidized housing programs, such as Section 8 or mixed-finance properties. If PHAs are already going through the smoke-free policy adoption process for their public housing units, they may also wish to make their entire portfolio of housing smoke-free or be part of coalitions working to make market-rate apartments smoke-free as well.

## Implementation

Spending time on the front end of adopting a smoke-free policy can lead to smoother implementation and resident buy-in. PHA staff can conduct a survey of residents to show resident demand and let residents know a policy is being considered. Developing an enforcement plan that includes requirements for signage, staff training, resident education, and cessation support and services can also help aid enforcement. Once a policy is in place, it is important that it be enforced in a timely, uniform, and consistent manner. In February 2017, HUD published [guidance on instituting and enforcing smoke-free public housing policies](#).

## Additional Resources

The Public Health Law Center has prepared several resources that may be helpful for Kansas PHAs considering smoke-free policies:

- [HUD's Rule to Restrict Smoking in Public Housing: An Overview](#). Provides answers to commonly asked questions about HUD's rule for smoke-free public housing.
- [Smoke-Free Public Housing: Reasonable Accommodations](#). Kansas PHAs considering smoke-free policies may receive accommodation requests from smokers. This fact sheet explains the legal framework for, and highlights a number of considerations to assist PHAs with, smoke-free reasonable accommodation requests.
- [Model Smoke-Free Lease Addendum](#) and [Model Smoke-Free House Rules Policy](#). These documents are for multi-unit housing in general and are not specific to PHAs. They can, however, be used for guidance.
- [Public Health Law Center's web site for PHAs](#).
- [HUD's Smoke-Free Public Housing web page](#). Includes resources to assist PHAs and residents with going smoke-free.

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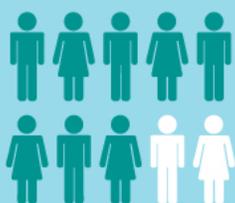
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# TOBACCO USE AND SECONDHAND SMOKE EXPOSURE IS HIGH IN MULTIUNIT HOUSING



- About **80 million (1 in 4) people in the US live in multiunit housing**, such as apartments.



- Many who live in public housing are especially affected by secondhand smoke, **including children, the elderly, and people with disabilities.**

- About **8 in 10 multiunit housing residents** choose to make their own homes **smoke-free.**



- About **20 percent of adults in multiunit housing use combustible tobacco products**, which are a source of secondhand smoke exposure.



Among multiunit housing residents with smoke-free home rules, **34 percent** report that secondhand smoke involuntarily enters their homes from somewhere else in or around the building.

## There is **no safe level** of **secondhand smoke exposure**



Secondhand smoke can **travel within multiunit housing** and common areas through **doorways, cracks in walls, electrical lines, ventilation systems and plumbing.**



Opening windows and using fans **does not completely remove secondhand smoke.**



Heating, air conditioning and ventilation systems **cannot eliminate exposure to secondhand smoke.**

WELCOME TO OUR

# TOBACCO-FREE SCHOOL

**NO** SMOKING  
VAPING  
DIPPING



For help quitting, call 1-800-QUIT-NOW or visit [KSQuit.org](http://KSQuit.org).



## Park Board Minutes

October 7<sup>th</sup>, 2019

5:30 P.M.

- I. Call to order by president Jim Hogan
  - a. Board Members present: Mark Coder, Anita Chappuie, Jim Hogan, Barb Beurskens, Mardie Long, Molly Reynolds
  - b. Board Members not present: Alix Oreck, Todd Young, Alex Moore, Val DeFever
- II. It was moved by Mark Coder to approve the minutes of September 3, 2019 meeting and seconded by Anita Chappuie. Motion Carried.
- III. New Business
  - a. Montgomery County Wellness Coalition Tobacco Free Parks – update and recommendation to the city commission from the park board
    - i. Barb Beurskens read an email from Kristie Hawley: The IHS Jag-K Program’s RESIST Chapter held a second park scan on Wednesday, October 2. This comes 4 weeks after the initial scan of the area. The areas focus remained the same as the last scan from the rock building by the dinosaur to the carousal and all the park area in between these locations. The largest concentration of butts in one area was located on the west side by the picnic tables under the tree with the second largest concentration in a small area being inside the play area where the fire truck jungle gym play area is. There were large amounts of butts on the east side by the parking spots. Areas of concentration of butts could be found throughout the park and next to or in the play areas and under the slides. In total this time 232 butts were removed from the area and disposed of.
    - ii. She then said they were seeking a recommendation to take to the city commission of removing smoking from the entire park area.
    - iii. Mark suggested just limiting the no smoking area to the playground area and the zoo, but not the entire park because when people rent buildings, they will want to smoke in those areas. Mardie and Anita voiced agreement. Mark made a motion for smoking to be banned in the park playgrounds and zoo including kiddie land and concession stand area, Mardie seconded. Motion carried.
- IV. Old Business - none reported.
- V. Staff and Committee Reports
  - a. Livestock catch pen – The bids were received and Barb accepted the bid by Gary Fraizer fencing because it came in about \$15,000 dollars lower than the rest.
  - b. Cougar escape – Tink, the cougar, escaped through a hole next to the cliff where a tree had been and then fell, when the tree fell, it caused the rock on the backside to fall away. She got out and went across the sidewalk and up on the ravine. The park and zoo staff followed the protocols that were in place by evacuating the zoo, locking the gates, calling the Independence Police Department, and calling Dr. Cooper. When everyone was there, they paired people off and every couple had a gun (either a tranquilizer or rifle) with the instructions to only shoot if there was danger as they preferred to tranquilize her. They found her after about an hour to an hour and a half after they moved her door to her nighttime pen and she heard it and came out, she was

tranquilized and returned to her exhibit safely. Barb wants to have an engineer come and look at the exhibit to make sure this doesn't happen again. She will have to stay in her upper exhibit until this is done.

- c. Ravine Bridge – It is now a wooden bridge and construction is finished. Railings are out for bid, because the catch pens bid was so low there is extra money that can be used on a different project.
- d. Playground – Maybe in November, can install the new big swing set and border and playground mulch.

VI. Other Concerns of the Board

- a. Barb has been working with Melissa Small to plan out gardens that are pretty but easier to maintain because there isn't a full time gardener and the current flower beds are a lot of maintenance.

VII. Upcoming and Past Activities

- a. Zoolloween – October 12<sup>th</sup>
- b. Christmas in the Park – December 7<sup>th</sup>

VIII. Adjournment – It was moved by Molly, Anita seconded. Motion carried.

Approved by : \_\_\_\_\_, President

Date: \_\_\_\_\_

## ARTICLE II. - AIR POLLUTION

### DIVISION 1. - GENERALLY

Secs. 42-26—42-35. - Reserved.

### DIVISION 2. - SMOKING

Sec. 42-36. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Public meeting* includes all meetings open to the public.

*Public place* means enclosed indoor areas open to the public that are used by the general public, including, but not limited to, restaurants, retail stores, public means of transportation, passenger elevators, health care institutions, or any other place where health care services are provided to the public, educational facilities, libraries, courtrooms, state, county, or municipal buildings, restrooms, grocery stores, school buses, museums, theaters, auditoriums, arenas, and recreational facilities.

*Smoking* means possession of a lighted cigarette, cigar, or pipe, or any other lighted smoking equipment.

(Ord. No. 3531, 7-3-87)

**Cross reference**— Definitions generally, § 1-2.

Sec. 42-37. - Penalty.

Violations of this division by any person shall be punishable by a fine of not more than \$20.00 for each violation.

(Ord. No. 3531, 7-3-87)

Sec. 42-38. - Restricted in public places.

No person shall smoke in a public place or at a public meeting except in designated smoking areas in the city. Smoking areas may be designated by the proprietors or other persons in charge of public places, except in passenger elevators, school buses, public means of transportation, and any other place in which smoking is prohibited by the fire marshal or other law, ordinance or regulation.

(Ord. No. 3531, 7-3-87)

Sec. 42-39. - Designation of smoking areas.

Smoking areas may be designated only in areas with ventilation systems or barriers may be utilized to minimize the toxic effect of smoke to adjacent nonsmoking areas. The proprietor shall post or cause to be posted in conspicuous places signs that clearly state that smoking is prohibited by city ordinance in those areas where smoking is not allowed. The proprietor shall also post or cause to be posted in any designated area signs stating that smoking is permitted in such area. The proprietor shall also designate the percentages of certain areas in public places which shall be posted and designated as smoking areas.

(Ord. No. 3531, 7-3-87)

Secs. 42-40—42-60. - Reserved.