

RESOLUTION NO. _____

Date adopted: ____ / ____ / 2016

Effective date: ____ / ____ / 2016

**A RESOLUTION AMENDING CHAPTER 20, ARTICLE I, SEC. 20-2
OF THE SEDGWICK COUNTY CODE.**

WHEREAS, K.S.A. 19-4701 *et seq.* established the code for the enforcement of county codes and resolutions; and

WHEREAS, on the 25th day of August, 1993, the Board of County Commissioners adopted Resolution No. 159-1993, which resolution adopted the Sedgwick County Code; and

WHEREAS, the Board of County Commissioners of Sedgwick County, Kansas, has authority to enact and provide procedures for the enforcement of the Sedgwick County Code in the unincorporated area of Sedgwick County as provided in K.S.A. 19-101, *et seq.*; and

WHEREAS, Resolution 063-2016 amended Sedgwick County Policy Number 4.309 regarding smoking to address the use of E-Cigarettes and Vaping in County owned, occupied or leased buildings; and

WHEREAS, Chapter 20, Article I, Section 20-2 of the Sedgwick County Code is intended to set forth Sedgwick County's policy regarding smoking in County owned, occupied or leased buildings as outlined in Policy Number 4.309 insofar as it relates to Sedgwick County citizens; and

WHEREAS, it has come to the attention of the County that Resolution 063-2016 inadvertently overlooked the need to update the corresponding section of the Sedgwick County Code.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, that the following amendment shall be made to the Sedgwick County Code.

SECTION 1. The text contained within Chapter 20, Article I. Sec. 20-2 shall be rescinded in its entirety and replaced by this section.

Sec. 20-2. - Smoking in county-owned, county-occupied or leased buildings.

- (a) Definitions. For purposes of this section the following definitions shall apply:
Smoking is defined as possessing any lighted cigarette, cigar, pipe or other lighted tobacco product.

E-cigarette is an electronic device, having a cartridge with a heater that is used by an individual to vaporize a liquid containing nicotine.

Vaping is defined as "to inhale and exhale the vapor produced by an electronic cigarette or similar device."

Building is defined as any enclosed heated or air-conditioned structure.

- (b) Prohibited. Smoking is prohibited inside any county-owned, county-occupied or leased building and within twenty-five (25) feet of an exterior door, operable window or air intake vent. Other areas adjacent to county-owned, county-occupied or leased buildings that are clearly designated as "no-smoking" will also be prohibited from smoking. Areas that are not air-conditioned and are clearly marked as "designated smoking areas" are not included in the above smoking prohibition regardless of where they are located. As e-cigarettes are not tobacco products and fall outside the scope of smoke-free legislation, their use will be allowed in certain designated areas inside county-owned, county-occupied or leased buildings, provided they are odorless.
- (c) Violation. It shall be a violation of this section for any person to smoke inside any county-owned, county-occupied or leased building and within twenty-five (25) feet of an exterior door, operable window or air intake vent. It is a violation of this section for any person to smoke in an area adjacent to a county-owned, county-occupied or leased building that is clearly designated as "no smoking".
- (d) Uniform complaint and notice to appear. Whenever any county code enforcement officer or any county law enforcement officer authorized under this section has probable cause to believe that a person is committing or has committed a violation of any provision of this section, the code enforcement officer or law enforcement officer may serve upon such accused person a uniform complaint and notice to appear, or in the alternative, may sign a complaint against the accused person and cause a notice to appear to be issued according to the provisions of the code for the enforcement of county codes and resolutions (K.S.A. 19-4701 et seq.).
- (e) Procedures. Procedures for prosecution of violations of this section shall be pursuant to chapter 8 of this Code.
- (f) Classification of offenses and schedule of fines. Any accused person who shall be convicted in county court for violation of any provision of this section shall be deemed guilty of a violation thereof in accordance with K.S.A. 19-4716 and shall be subject to payment of a fine which shall be fixed by the court at a sum not to exceed five hundred dollars (\$500.00); provided further, the minimum fine for any violation of this section shall be assessed according to section 8-5, as amended, and subject to the enhancements contained therein, and each and every violation of this section shall be classified according to the classification indicated in the violation.
- (g) Separate offense. Each violation of this section shall constitute a separate offense and shall be punishable as a separate violation. Provided, however, that if any person is found guilty of a violation hereunder and it shall appear to the court that the violation complained of as prescribed in this section is continuing, then in addition to the penalty

set forth the court shall enter such order as it deems appropriate to cause the violation to be abated.

- (h) Enforcement. The following county employees are hereby appointed to serve as code enforcement officers pursuant to K.S.A. 19-101d(b)(2), and as amended, and shall have the power to sign, issue and execute uniform complaints and notices to appear as is fully set out in the state code for the enforcement of county codes and resolutions (K.S.A. 19-4701 et seq.), as amended:

County security department head and that person's designees.

Facility directors and those persons' designees.

County code enforcement officers or any county law enforcement officer.

SECTION 2. OTHER PROVISIONS.

All other portions of chapter 20 of the Sedgwick County Code shall remain in full force and effect as written therein.

SECTION 3. SEVERABILITY.

Should any section, clause or provision of this resolution be declared by any court of competent jurisdiction to be invalid, the same shall not affect the validity of this resolution as a whole, or any part thereof, other than the part so declared to be invalid.

SECTION 4. PUBLICATION AND EFFECTIVE DATE.

The Sedgwick County Clerk is directed to publish this resolution once in the official county newspaper. This resolution shall take effect upon its publication in the official county newspaper.

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Commissioners present and voting were:

DAVID M. UNRUH
TIM R. NORTON
KARL PETERJOHN
RICHARD RANZAU
JAMES M. HOWELL

Dated this _____ day of _____, 2016.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS


ATTEST:

KELLY B. ARNOLD, County Clerk

JAMES M. HOWELL, Chairman
Commissioner, Fifth District

RICHARD RANZAU, Chair Pro Tem
Commissioner, Fourth District

APPROVED AS TO FORM:



JON P. VON ACHEN
Assistant County Counselor

DAVID M. UNRUH
Commissioner, First District

TIM R. NORTON
Commissioner, Second District

KARL PETERJOHN
Commissioner, Third District