

SMOKING, PROHIBITED ON ALL TOWN-OWNED PROPERTIES

LOCAL LAW NO. 1 OF THE YEAR 2022

A Local Law Prohibiting Smoking on All Town-Owned Properties

Adopted January 4, 2022

Be it enacted by the Town Board of the Town of Kirkwood as follows:

Section 1. Title.

The title of this Local Law shall be, “A Local Law Prohibiting Smoking on All Town-Owned Properties.”

Section 2. Statutory Authority.

This Local Law is adopted pursuant to the provisions of the Municipal Home Rule Law of the State of New York, the Town Law of the State of New York, and Public Health Law Section 1399-R.

Section 3. Purpose.

The purpose of this Local Law is to protect the health, safety and general welfare of the inhabitants of the Town of Kirkwood ("Town") by establishing regulations on the smoking of any substances on Town-owned property, including but not limited to Town-owned buildings, facilities, sidewalks, parking lots, parks, preserves, and playgrounds.

Section 4. Definitions.

Electronic Cigarette shall have the same meaning as used and defined in Section 1399-aa of the New York State Public Health Law.

Vaping shall have the same meaning as used and defined in Section 1399-n of the New York State Public Health Law.

Smoking means the burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or cannabis as defined in Section 222.00 of the Penal Law, cannabinoid hemp as defined in Section three of the Cannabis Law and/or any other plant products intended for inhalation, whether natural or synthetic.

Section 5. Prohibited Conduct.

- (a) Smoking and/or Vaping any substance using any device and/or method including, but not limited to, cigarettes, cigars, Electronic Cigarettes and pipes, is prohibited in and on all Town-owned properties, including but not limited to all public buildings, facilities, sidewalks, parking lots, parks, preserves, and playgrounds.

Section 6. Penalties.

Any person violating any of the provisions of this Local Law shall be punishable for the first offense by a fine not to exceed \$100; for the second offense by a fine not to exceed \$150; and for the third or subsequent offenses by a fine not to exceed \$250. For the purpose of conferring jurisdiction upon courts and judicial officers generally, offenses of this Local Law shall be deemed violations and for such purpose only all provisions of law relating to violations shall apply.

Section 7. Enforcement.

Any police officer or other person or persons, who are or may be lawfully authorized by the Town, shall, or any other peace officer may, administer and enforce the provisions of this Local Law, and for such purpose shall have the authority to issue appearance tickets.

Section 8. Separability.

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word, or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this local law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word, or part had not been included therein, and as if such person or circumstance, to which this Local Law or part thereof is held inapplicable, had been specifically exempt therefrom.

Section 9. Repealer.

All Ordinances, Local Laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 10. Effective Date.

This Local Law shall take effect immediately upon filing with the New York State Secretary of State in accordance with § 27 of the Municipal Home Rule Law.