

**ORDINANCE NO. 2020-10-4522**

**AN ORDINANCE ESTABLISHING CRIMINAL CONDUCT WITHIN THE CORPORATE LIMITS OF THE CITY OF ARKANSAS CITY, KANSAS; INCORPORATING BY REFERENCE THE “UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES,” 36<sup>th</sup> EDITION , WITH CERTAIN CHANGES AND ADDITIONS; AMENDING THE CITY OF ARKANSAS CITY MUNICIPAL CODE TO SO REFLECT; AND REPEALING ORDINANCE NUMBER 2019-12-4504.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ARKANSAS CITY, KANSAS:**

**Section 1. INCORPORATING UNIFORM PUBLIC OFFENSE CODE.**

There is hereby incorporated by reference for the purpose of establishing criminal conduct within the corporate limits of the City of Arkansas City Kansas, that certain standard public offenses known as the “Uniform Public Offense Code for Kansas Cities,” 36<sup>th</sup> Edition, prepared and published in book form in 2020 by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed herein. No fewer than one copy of said Standard Uniform Public Offense Code for Kansas Cities shall be marked or stamped “Official Copy as Adopted by Ordinance No. 2020-10-4522,” with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. The police department, municipal judge and all administrative departments of the city charged with enforcement of the public offense code shall be supplied, at the cost of the city, such number of official copies of such Standard Uniform Public Offense Code similarly marked, as may be deemed expedient.

**Section 2: AMENDMENTS TO MUNICIPAL CODE**

The Governing Body hereby modifies and amends the Arkansas City Municipal Code Chapter 42, Article II to provide additions and modifications to the Standard Uniform Public Offense Code for Kansas Cities as follows (new provisions in italics; deleted provisions struck through):

**42-19 Title.**

The Uniform Public Offense Code for Kansas Cities, 36<sup>th</sup> Edition (hereafter “Uniform Public Offense Code”), is incorporated by reference in its entirety and made a part of the Public Offense Code of the City of Arkansas City as if fully set forth herein, except as modified or supplemented in this Chapter.

**Section 42-29** is hereby added to the City of Arkansas City Municipal Code to read as follows (new provisions in italics):

***42-29 Selling, Giving or Furnishing Cigarettes or Tobacco Products to a minor.***

*(a) It shall be unlawful for any person to:*

- (1) Sell, furnish or distribute cigarettes, electronic cigarettes, or tobacco products to any person under 18 years of age; or*
- (2) Buy any cigarettes, electronic cigarettes, or tobacco products for any person under 18 years of age.*

*(b) It shall be a defense to a prosecution under this section if:*

- (1) The defendant is a licensed retail dealer, or employee thereof, or a person authorized by law to distribute samples;*
- (2) The defendant sold, furnished or distributed the cigarettes, electronic cigarettes, or tobacco products to the person under 18 years of age with reasonable cause to believe the person was of legal age to purchase or receive cigarettes, electronic cigarettes or tobacco products; and*
- (3) To purchase or receive the cigarettes, electronic cigarettes, or tobacco products, the person under 18 years of age exhibited to the defendant a driver’s license, Kansas non driver’s 50 identification card or other official*

*or apparently official document containing a photograph of the person and purporting to establish that the person was of legal age to purchase or receive cigarettes, electronic cigarettes, or tobacco products.*

*(4) For purposes of this section the person who violates this section shall be the individual directly selling, furnishing or distributing the cigarettes, electronic cigarettes, or tobacco products to any person under 18 years of age or the retail dealer who has actual knowledge of such selling, furnishing or distributing by such individual or both.*

*(c) It shall be a defense to a prosecution under this subsection if:*

*(1) The defendant engages in the lawful sale, furnishing or distribution of cigarettes, electronic cigarettes, or tobacco products by mail; and*

*(2) The defendant sold, furnished or distributed the cigarettes, electronic cigarettes, or tobacco products to the person by mail only after the person had provided to the defendant an unsworn declaration, conforming to K.S.A. 53-601 and amendments thereto, that the person was 18 or more years of age.*

*(d) As used in this section, sale means any transfer of title or possession or both, exchange, barter, distribution or gift of cigarettes or tobacco products, with or without consideration.*

*(e) Violation of this section shall constitute a Class B violation punishable by a minimum fine of \$200. (K.S.A. 79-3302, 79-3321:79-3322)*

### **Section 3: DEVIATIONS FROM UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES, EDITION OF 2020**

The City of Arkansas City Municipal Code provides additions, exceptions and modifications to certain sections of the Uniform Public Offense Code for Kansas Cities, 36<sup>th</sup> Edition, which are hereby ratified and confirmed. As described in City of Arkansas City Municipal Code: Uniform Public Offense Code Section 5.8 is amended by Municipal Code Section 42-20; Uniform Public Offense Code Section 6.8 is supplanted by Municipal Code Section 42-26; Uniform Public Offense Code Section 9.5 is supplanted by Municipal Code Section 42-27; and Uniform Public Offense Code Section 10.6 is amended by Municipal Code 42-28. Further, the Uniform Public Offense Code is supplemented with the following Municipal Code Sections: 42-21; 42-22; 42-23; and 42-24.

### **Section 4: REPEAL**

To the extent any provision(s) of Ordinance number 2019-12-4504 conflicts with or is otherwise specifically supplanted by this Ordinance, those provisions of Ordinance number **2019-12-4504** are hereby repealed.

### **Section 5: EFFECTIVE DATE**

The City Clerk shall make proper publication of this Ordinance, or a summary thereof, in the official City newspaper, and shall take effect and be in force from and after said publication. That the Mayor, City Clerk, and/or City Administration of the City of Arkansas City, Cowley County, Kansas, are authorized and directed to execute any and all documents necessary to consummate the Legislative purposes and intents as expressed herein and if executed by the Mayor (or other person authorized by law to act in the event of the absence or inability of the Mayor to act), the City Clerk is directed to attest to and affix the Official Seal of the City thereon.

**PASSED AND ORDAINED** by the Governing Body of the City of Arkansas City, Kansas, on this 20<sup>th</sup> day of October, 2020.

Karen Welch, Mayor

ATTEST:

Lesley Shook, City Clerk

APPROVED AS TO FORM:

Larry R. Schwartz, City Attorney