

(Summary First Published in the _____
on the ____ day of _____, 2019.)

THE CITY OF CHENEY, KANSAS

ORDINANCE NO. 924

AN ORDINANCE REGULATING THE PURCHASE AND POSSESSION BY AND SELLING, GIVING OR FURNISHING OF CIGARETTES, ELECTRONIC CIGARETTES, OR TOBACCO PRODUCTS TO PERSONS UNDER 21 YEARS OF AGE WITHIN THE CORPORATE LIMITS OF THE CITY OF CHENEY, KANSAS BY AMENDING SECTIONS 5.6 AND 5.7 OF THE "UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES," AS ADOPTED BY SECTION 11-101 OF THE CODE OF THE CITY OF CHENEY, KANSAS, AND REPEALING ALL OTHER CONFLICTING ORDINANCES AND PARTS OF ORDINANCES OF THE CITY OF CHENEY, KANSAS.

WHEREAS, the governing body of the City of Cheney, Kansas acknowledges that secondhand tobacco the use of cigarettes, electronic cigarettes, or tobacco products smoke poses a threat to the health, safety and welfare of adults and minor childrenpersons within the City of Cheney, Kansas; and

WHEREAS, the governing body of the City of Cheney, Kansas has been informed that the U.S. Surgeon General has determined that there is no safe level of exposure to tobacco smoke pollution; and

WHEREAS, the governing body of the City of Cheney, Kansas has been informed that secondhand tobacco smoke is responsible for nearly 41,000 deaths among nonsmokers each year; and

WHEREAS, the governing body of the City of Cheney, Kansas has been informed that tobacco kills more Americans each year than alcohol, illegal drugs, homicide, suicide, car accidents, fire and AIDS combined; and

WHEREAS, the governing body of the City of Cheney, Kansas has been informed that nearly 90% of smokers started smoking before the age of 18, and the average initiation age is 15 years old; and

WHEREAS, the governing body of the City of Cheney, Kansas has been informed that every year in Kansas, an estimated 1,500 young people under the age of 18 years become new daily smokers and 61,000 children now under 18 years will die prematurely from smoking; and

WHEREAS, the governing body of the City of Cheney, Kansas desires to promote the public health by prohibiting the purchase and possession by and selling, giving or furnishing of cigarettes, electronic cigarettes, or tobacco products to persons under 21 years of age within the corporate limits of the City of Cheney, Kansas by amending Sections 5.6 and 5.7 of the "Uniform Public Offense Code for Kansas Cities," as adopted by Section 11-101 of the Code of the City of Cheney, Kansas.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHENEY, SEDGWICK COUNTY KANSAS:

Section 1. Amending Section 5.6 of the Uniform Public Offense Code

Section 5.6 of the Uniform Public Offense Code for Kansas Cities, as adopted by Section 11-101 of the Code of the City of Cheney, Kansas, is hereby amended to read as follows:

"Section 5.6. Purchase or Possession of Cigarettes, Electronic Cigarettes, or Tobacco Products by a Person Under 21 Years of Age.

It shall be unlawful for any person:

- a) Who is under 21 years of age to purchase or attempt to purchase cigarettes, electronic cigarettes, or tobacco products; or
- b) Who is under 21 years of age to possess or attempt to possess cigarettes, electronic cigarettes, or tobacco products.

Violation of this section shall be a Class B violation. In addition, the judge may require a person under 18 years of age to appear in court with a parent or legal guardian."

Section 2. Amending Section 5.7 of the Uniform Public Offense Code

Section 5.7 of the Uniform Public Offense Code for Kansas Cities, as adopted by Section 11-101 of the Code of the City of Cheney, Kansas, is hereby amended to read as follows:

"Section 5.7. Selling, Giving or Furnishing Cigarettes, Electronic Cigarettes, or Tobacco Products to a Person Under 21 Years of Age.

- a) It shall be unlawful for any person to:

(1) Sell, furnish or distribute cigarettes, electronic cigarettes, or tobacco products to any person under 21 years of age; or

(2) Buy any cigarettes, electronic cigarettes, or tobacco products for any person under 21 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 21 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 21 years of age exhibited to the defendant a driver's license, Kansas non driver's 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 21 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 section 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 21 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, electronic cigarettes, or tobacco products, with or without consideration.

Violation of this section shall constitute a Class B violation punishable by a minimum fine of \$200."

Section 3. Repeal

All other ordinances or parts of other ordinances in conflict herewith are repealed. However, any section of an existing ordinance not in conflict herewith is not repealed and

remains in full force and effect.

Section 4. Effective Date

This Ordinance shall finally take effect on January 1, 2020 and be in force from and after publication in the official city newspaper.

Passed by the City Council this 14th day of November, 2019.

Approved by the Mayor this 14th day of November, 2019.

MAYOR, LINDA BALL

SEAL

ATTEST:

CITY CLERK, DANIELLE YOUNG