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Jeanne M. Heidlage, Rogers County Clerk
Rogers County - State of Oklahoma

ORDINANCE 2022-15

AN ORDINANCE AMENDING SECTION 133.20 OF CHAPTER 133 OF THE ORDINANCES OF THE CITY OF CLAREMORE, OKLAHOMA, REGARDING THE SALE OF TOBACCO TO MINORS

WHEREAS, the City of Claremore, pursuant to the powers delegated to it by the Oklahoma Constitution, Oklahoma Statutes, and as a Charter City, has the authority to amend Section 133.20 of Chapter 133 of the City Ordinances regarding the sale of tobacco to minors; and

THEREFORE, BE IT ORDAINED by the Council of the City of Claremore, Oklahoma, that:
Section 1. Amendment. That City of Claremore Code, Title XIII, Chapter 133, Section 133.20 be amended as follows *(all deletions are struck through and insertions underlined):*

SALE OF TOBACCO AND VAPOR PRODUCTS TO MINORS.

(A) As used in this section the following definitions shall apply:

PERSON. Any individual, firm, fiduciary, partnership, corporation, trust, or association, however formed.

PROOF OF AGE. A driver license, license for identification only, or other generally accepted means of identification that describes the individual as ~~18~~ 21 years of age or older and contains a photograph or other likeness of the individual and appears on its face to be valid.

SAMPLE. A tobacco product distributed to members of the public at no cost for the purpose of promoting the product.

SAMPLING. The distribution of samples to members of the public in a public place.

TOBACCO PRODUCT. Any product that contains tobacco and is intended for human consumption.

VAPOR PRODUCT. Any noncombustible products, that may or may not contain nicotine, that employ a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form. "Vapor Product" shall include any vapor cartridge or other container with or without nicotine or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any other vapor cartridge or other container of a solution, that may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar electronic cigarillo or electronic device. "Vapor product" does not include any product regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetic Act.

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(B) (1) It is unlawful for any person to sell or furnish in any manner any tobacco product or vapor product to another person who is under ~~18~~ 21 years of age, or to purchase in any manner a tobacco product or vapor product on behalf of any such person. Provided, however, that it shall not be unlawful for an employee under ~~18~~ 21 years of age to handle such products when required in the performance of the employee's duties.

(2) A person engaged in the sale or distribution of tobacco products or vapor products shall demand proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under ~~18~~ 21 years of age.

(3) If the sale is made by an employee of the owner of a store at which tobacco products or vapor products are sold at retail, the employee shall be guilty of the violation and shall be subject to the fine.

(4) For purposes of determining the liability of a person controlling franchises or business operations in multiple locations for any violation of subdivisions (1) or (2) of this division, each individual franchise or business location shall be deemed a separate entity.

(C) It is unlawful for a person who is under ~~18~~ 21 years of age to purchase, accept receipt of, or have in their possession a tobacco product or vapor products, or to present or offer to any person any purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any tobacco product or vapor products. Provided, however, that it shall not be unlawful for such a person to handle such tobacco product or vapor products when required in the performance of such person's duties.

(D) (1) It shall be unlawful for any person to distribute tobacco product or vapor products samples to any person under ~~18~~ 21 years of age.

(2) Notwithstanding subdivision (1) of this division, no person shall distribute tobacco product or vapor products samples in or on any public street, sidewalk, or park that is within 300 feet of any playground, school, or other facility when the facility is being used primarily by persons under ~~18~~ 21 years of age.

(E) It is unlawful for any person to sell cigarettes except in the original, sealed package in which they were placed by the manufacturer.

SECTION 2: The City Clerk is hereby ordered and directed to cause this Ordinance to be published as required by law.

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~~**SECTION 3:**Emergency Clause. An emergency is hereby declared to exist where by it is necessary for the preservation of the public health, safety and welfare of the inhabitants of the City of Claremore, Oklahoma, that this Ordinance shall be in full force and effect immediately from and after its passage, approval and adoption.~~

PASSED AND APPROVED by the Mayor and Council of the City of Claremore, Oklahoma, this 6th day of June, 2022 ~~by vote on Sections Nos. 1 through 2 and then by separate vote on Section No. 3 (the Emergency Clause).~~

Bill Flanagan

Bill Flanagan, Mayor

ATTEST:

Sarah Sharp

Sarah Sharp, City Clerk

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