

**CITY OF ARDMORE  
OFFICE OF CHIEF OF POLICE**

Council Letter No. 5390

Meeting Date: April 18, 2022

Mayor and City Commission  
City of Ardmore, Oklahoma

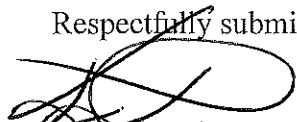
RE: Ordinance Amending Chapter 19, Article III, of the Ardmore Code of Ordinances  
Pertaining to Prevention of Youth Access to Tobacco

Dear Commission Members:

The Ordinance is amending Chapter 19, Article III, of the Ardmore Code of Ordinances pertaining to the prevention of youth access to tobacco; Sec. 19-136. - Definitions; Sec. 19-137 - Sale and Furnishing Tobacco Products to Minors; Sec. 19-138. - Tobacco Vending Machines; Sec. 19-139. - Display of Tobacco Age Restriction Signage; Sec. 19-140. - Public Access to Tobacco Products; and Sec. 19-141. - Tobacco Paraphernalia.


Staff recommends approval of this Ordinance Amending Chapter 19, Article III, of the Ardmore Code of Ordinances pertaining to prevention of youth access to tobacco.

Respectfully submitted,



Kevin Norris  
Chief of Police

Reviewed by: \_\_\_\_\_

  
City Manager

ORDINANCE NO. 3121

AN ORDINANCE AMENDING CHAPTER 19, ARTICLE III, OF THE ARDMORE CODE OF ORDINANCES PERTAINING TO PREVENTION OF YOUTH ACCESS TO TOBACCO; PROVIDING DEFINITIONS, PROHIBITING SALE OF TOBACCO TO MINORS; REGULATING TOBACCO VENDING MACHINES; REQUIRING SIGNAGE ON RESTRICTED SALE OF TOBACCO; PROHIBITING PUBLIC ACCESS TO TOBACCO PRODUCTS; PROHIBITING SALE OF TOBACCO PERAPHERNALIA TO MINORS; PROVIDING FOR REPEALER, PENALTIES FOR VIOLATION; SEVERABILITY AND DECLARING AN EMERGENCY

BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF ARDMORE

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SECTION 1. **Amendatory.** Chapter 19, article III - PREVENTION OF YOUTH ACCESS TO TOBACCO is hereby amended to read as follows:

• **Sec. 19-136. - Definitions.**

The following definitions shall apply in this article preventing youth access to tobacco

Minor means any person under the age of 21 years

Tobacco means tobacco products, nicotine products or vapor products

*Tobacco vending machine* - includes any machine or device designated for use or used for the vending of cigarettes, cigars, tobacco or tobacco products upon the insertion of coins, trade checks or slugs.

**Sec. 19-137. - Sale and furnishing tobacco products to minors.**

A. It is unlawful for any retailer to sell, give or furnish in any manner any tobacco product, nicotine product or vapor product to another person who is under twenty-one (21) years of age, or to purchase in any manner a tobacco product, nicotine product or vapor product on behalf of any such person. It shall not be unlawful for an employee under twenty-one (21) years of age to handle tobacco products, nicotine products or vapor products when required in the performance of the employee's duties.

B. A person engaged in the sale or distribution of tobacco products, nicotine 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 twenty-one (21) years of age.

C. If an individual engaged in the sale or distribution of tobacco products, nicotine products or vapor products has demanded proof of age from a prospective purchaser or

recipient who is not under twenty-one (21) years of age, the failure to subsequently require proof of age shall not constitute a violation of this subsection.

D. Proof that the defendant demanded, was shown, and reasonably relied upon proof of age shall be a defense to any action brought pursuant to this section. A person cited for violating this section shall be deemed to have reasonably relied upon proof of age, and such person shall not be found guilty of the violation if such person proves that:

a. the individual who purchased or received the tobacco product, nicotine product or vapor product presented a driver license or other government-issued photo identification purporting to establish that such individual was twenty-one (21) years of age or older, or

b. the person cited for the violation confirmed the validity of the driver license or other government-issued photo identification presented by such individual by performing a transaction scan by means of a transaction scan device.

Provided, that this defense shall not relieve from liability any person cited for a violation of this section if the person failed to exercise reasonable diligence to determine whether the physical description and picture appearing on the driver license or other government-issued photo identification was that of the individual who presented it. The availability of the defense described in this subsection does not affect the availability of any other defense under any other provision of law.

c. Violations of this Article shall punished as set forth hereinabove shall be punished by a fine not exceeding two hundred dollars (\$200.00)

### **Sec. 19-138. - Tobacco vending machines.**

(a)

*Conditions For Operation of Vending Machines:* It shall be unlawful for the owner or manager of any building or business, and any other person in lawful possession or control of the space, upon which a tobacco vending machine sits, to permit or allow to be operated a tobacco vending machine unless

1. The machine is located in an area not accessible to persons under 2) years of age; or
2. The machine is located in a workplace where the general public is not usually admitted and where such machines are for the use of the employees therein. In such cases, it shall be the responsibility of the owner or manager of any building or business and any other person in lawful possession of said machine to bar access to the machine by persons under 21 years of age.

Violations of this Article shall punished as set forth hereinabove shall be punished by a fine not exceeding two hundred dollars (\$200.00),

- **Sec. 19-139. - Display of tobacco age restriction signage.**

(a)

Any person who sells or displays tobacco products at retail must post conspicuously at the place of business a sign stating the following:

It is the law. We do not sell tobacco products to persons under 21) years of age.

The sign shall also provide a toll free telephone number for the purpose of reporting violations of the prevention of youth access to tobacco act.

(b)

Violations of this section shall be punished as set forth hereinabove by a fine not exceeding two hundred dollars (\$200.00)

**Sec. 19-140. - Public access to tobacco products.**

(a)

It is unlawful for any person to display or offer for sale tobacco products in any manner that allows public access to the tobacco product without assistance from the person displaying the tobacco product or an employee or owner of the store.

(b)

If the business does not admit into the store persons under 21 years of age this section does not apply.

(c)

Violations of this section shall be punished as set forth hereinabove by a fine not exceeding two hundred dollars (\$200.00),

- **Sec. 19-141. - Tobacco paraphernalia.**

(a)

It is unlawful for any person to sell, give, or furnish in any manner to a person under the age of 21 years of age any material or device used in the smoking, chewing, or other method of consumption of tobacco, including cigarette papers, pipes, holders of smoker materials of all types, and other items designed primarily for the smoking or ingestion of tobacco products.

(b)

Violations of this section shall be punished as set forth hereinabove by a fine not exceeding two hundred dollars (\$200.00),

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Violations of this section shall be punished as set forth hereinabove by a fine not exceeding two hundred dollars (\$200.00), or by imprisonment not to exceed thirty (30) days, or both such fine and imprisonment.

**Section 2: Repealer.** All ordinances or parts thereof, which are inconsistent with this Ordinance are here by repealed.

**Section 3: Savings Clause.** Nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceedings now pending in any court, or any rights acquired or liability incurred, nor any cause or causes of action accrued of existing, under any act or Ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

**Section 4: Severability.** If any one or more of the sections, sentences, clauses, or parts of this Ordinance shall, for any reason, be held invalid, the invalidity of such section, sentence, clause, or part, shall not affect or prejudice in any way the applicability and validity of any other provision of this Ordinance. It is hereby declared to be the intention of the Mayor and Board of Commissioners of the City of Ardmore that this section of the Code of Ordinances for the City of Ardmore, Oklahoma, 2014, would have been adopted had such unconstitutional, illegal, or otherwise invalid section, sentence, clause, or part had not been included.

**Section 5: Emergency.** It being immediately necessary for the preservation of the public peace, health, safety, and welfare of the City of Ardmore and the inhabitants thereof that this ordinance be put into full effect, an emergency is hereby declared to exist by reason whereof this ordinance shall be in full force and effect from and after its passage and approval

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The undersigned hereby certify that the foregoing ordinance was introduced before the Ardmore City Commission on the \_\_\_\_ day of \_\_\_\_\_, 2022, and was duly adopted and approved by the Mayor and City Commission of the City of Ardmore on the \_\_\_\_ day of \_\_\_\_\_, 2022, after compliance with notice requirements of the Oklahoma Open Meeting Law.

CITY OF ARDMORE  
A MUNICIPAL CORPORATION

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Mayor

ATTEST:

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City Clerk