

(Summary Publish in the Leavenworth Times on September 25, 2020)

ORDINANCE NO. 8144

AN ORDINANCE AMENDING CHAPTER 30 OF THE CODE OF ORDINANCES REGULATING PUBLIC OFFENSES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAVENWORTH, KANSAS; INCORPORATING BY REFERENCE THE "UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES" EDITION OF 2020, WITH CERTAIN OMISSIONS AND CHANGES.

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

Section 1. That the Code of Ordinances, City of Leavenworth, Kansas, Chapter 30, Offenses, Sections 30-1, 30-2 and 30-3, are hereby deleted in its entirety and amended to read as follows:

Sec. 30-1. Uniform Public Offense Code adopted; amendments.

- (a) *Adoption.* There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the city that certain code known as the Uniform Public Offense Code for Kansas Cities, edition of 2020, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereinafter omitted, deleted, modified or changed. One official copy of said Uniform Public Offense Code shall be marked or stamped "Official Copy as Adopted by Ordinance No. 8144" 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 Ordinance No. 8144 and filed with the city clerk to be open to inspection and available to the public at all reasonable hours.
- (b) *Amendments and omissions.*
 - (1) Notwithstanding the foregoing, section 5.7 and section 10.6 of the adopted Uniform Public Offense Code are deleted in their entirety and amended to read as provided in sections 30-2 and 30-3.
 - (2) Section 3.2.1, pertaining to sexual battery, of said Uniform Public Offense Code is hereby declared to be omitted and deleted.
 - (3) Section 4.1, pertaining to lewd, lascivious behavior, of said Uniform Public Offense Code is hereby declared to be omitted and deleted.
 - (4) Section 4.3, pertaining to selling sexual relations, of said Uniform Public Offense Code is hereby declared to be omitted and deleted.
 - (5) Section 4.4, pertaining to buying sexual relations, of said Uniform Public Offense Code is hereby declared to be omitted and deleted.
 - (6) Section 11.15, pertaining to permitting a dangerous animal to be at large, of said Uniform Public Offense Code is hereby declared to be omitted and deleted.

Sec. 30-2. Selling, giving or furnishing 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 to any person under the age of 21 years any cigarettes, electronic cigarettes, or tobacco products; 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 subsection (a) of 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.
- (c) It shall be a defense to a prosecution under subsection (a) of 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, that the person was 21 or more years of age.
- (d) 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.
- (e) Notwithstanding any separate definition in section 1.1 of the Uniform Public Offense Code for Kansas Cities, the term electronic cigarette means a device that delivers nicotine or other substances to the person inhaling from the device, including but not limited to any electronic cigarette, cigar, pipe, or hookah, including any component, part, or accessory of such a device, whether or not sold separately. Electronic cigarette shall not include any products that have been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

- (f) 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.
- (g) It is unlawful for any person who is a retail dealer to fail to post and maintain in a conspicuous place in the dealer's establishment the following notice: "BY LAW, CIGARETTES AND TOBACCO PRODUCTS MAY BE SOLD ONLY TO PERSONS 21 YEARS OF AGE AND OLDER." Retailer shall mean any person, firm or corporation engaged in the business of selling tobacco products, alternative nicotine products, or vapor products by personal handling to an ultimate customer or consumer.
- (h) Violation of this section is a class B violation punishable by a minimum fine of \$200.00.

Sec. 30-3. Air guns, air rifles, bows and arrows, slingshots and BB guns.

- (a) The unlawful operation of an air gun, air rifle, bow and arrow, slingshot or BB gun is the shooting, discharging or operating of any air gun, air rifle, bow and arrow, slingshot or BB gun, within the city, except by permit authorized by the city for deer hunting or within the confines of a building or other structure from which to projectiles cannot escape; provided, that a bow and arrow may be used in an open air archery range meeting the following requirements.
 - (1) An open, flat plain with a clear and unobstructed field of distance. The maximum distance between archer and target shall be no more than 40 yards.
 - (2) Target shall be situated so that any path, target, road or building is located with a 30 degree arc centered perpendicular with the shooter and target extending a minimum of 40 yards behind the target.
 - (3) A target backstop be constructed which is at least 12 feet wide and eight feet high behind each target. The backstop is to be constructed and maintained using a material which would capture and trap arrows shot into it. The material used must not cause arrows to be deflected in another direction.
 - (4) A secondary earthen backstop consisting of an earthen berm, material hill or excavated face shall be provided. The secondary backstop should be at least 30 feet wide and 16 feet high.
 - (5) Operation of an archery range shall be allowed between the hours of sunrise and sunset.
- (b) Unlawful operation of an air gun, air rifle, bow and arrow, slingshot or BB gun is a class C violation.

Section 3. REPEAL. Sections 30-1, 30-2, and 30-3 of Chapter 30, Offenses, of the Code of Ordinances of the City of Leavenworth, Kansas, in existence as of and prior to the adoption of this ordinance, are hereby repealed.

Section 4. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its publication in the official city newspaper.

PASSED and APPROVED by the Governing Body on this 22nd day of September 2020.

/s/ Myron J. "Mike" Griswold
Myron J. "Mike" Griswold, Mayor

{Seal}

ATTEST:

/s/ Carla K. Williamson
Carla K. Williamson, CMC, City Clerk