

### **Ordinance No. 3164 Summary**

On October 13, 2020, the City of Paola, Kansas, adopted Ordinance No. 3164, amending Section 205.005 of the Code of the City of Paola, Kansas, 2009, Regulating Public Offenses within the corporate limits of the City of Paola, Kansas; Incorporating by reference the “Uniform Public Offense Code for Kansas Cities, 36th Edition”, omitting Section 3.1.1 – Domestic Battery; Section 6.16 - Giving a Worthless Check; and Section 6.19 - Equity Skimming; and amending Section 5.6- Purchase or Possession of Cigarettes or Tobacco Products by a Minor, Section 5.7- Selling, Giving or Furnishing Cigarettes or Tobacco Products to a Minor, and Section 6.8 - Criminal Littering. A complete copy of this ordinance may be obtained or viewed free of charge at the Office of the City Clerk at City Hall, 19 E Peoria Street or at [www.cityofpaola.com](http://www.cityofpaola.com). This summary is certified by Lee H. Tetwiler, Paola City Attorney pursuant to K.S.A. 12-3001, et seq.

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### **ORDINANCE NO. 3164**

**AN ORDINANCE AMENDING SECTION 205.005 OF THE CODE OF THE CITY OF PAOLA, KANSAS, 2009, REGULATING PUBLIC OFFENSES WITHIN THE CORPORATE LIMITS OF THE CITY OF PAOLA, KANSAS; INCORPORATING BY REFERENCE THE “UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES, 36TH EDITION”, WITH CERTAIN OMISSIONS AND AMENDMENTS.**

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PAOLA, KANSAS:

**SECTION 1.** That Section 205.005 of the Code of the City of Paola, Kansas, 2009, is hereby amended as follows:

**“SECTION 205.005. UNIFORM PUBLIC OFFENSE CODE.**

- A. INCORPORATING UNIFORM PUBLIC OFFENSE CODE. There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Paola, Kansas, that certain code known as the “Uniform Public Offense Code, 36th Edition”, 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 hereafter omitted, deleted, modified or changed. No less than one copy of said Uniform Public Offense Code shall be marked or stamped “OFFICIAL COPY AS ADOPTED BY ORDINANCE NO. 3164,” 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.

B. OMISSION. The following sections of the Uniform Public Offense Code, 36th Edition, relating to the following matters, are hereby omitted and deleted:

Section 3.1.1	Domestic Battery
Section 6.16	Giving a Worthless Check
Section 6.19	Equity Skimming

C. AMENDMENT. That Section 5.6 and 5.7 of the Uniform Public Offence Code for Kansas Cities, Edition 2019 shall be amended to read as follows:

**Sec. 5.6. Purchase of Cigarettes, or Tobacco Products by Persons under 21.**

It shall be unlawful for any person:

- (a) Who is under twenty-one (21) years of age to purchase or attempt to purchase cigarettes, electronic cigarettes, liquid nicotine or tobacco products in any form.
- (b) For the purposes of this section, the terms are defined in K.S.A. 79-3301 and amendments thereto, except liquid nicotine which is the active ingredient of the tobacco plant (nicotine) in liquefied form suitable for the induction of nicotine, whether by nasal spray, ingestion, smoking or other means, into the human body.

**Sec. 5.6.1 Possession of Cigarettes, or Tobacco Products by Persons under 18.**

It shall be unlawful for any person:

- (a) Who is under eighteen (18) years of age to possess or attempt to possess cigarettes, electronic cigarettes, liquid nicotine or tobacco products in any form. (K.S.A. 79-3321:3322, as amended.)
- (b) For the purposes of this section, the terms are defined in K.S.A. 79-3301 and amendments thereto, except liquid nicotine which is the active ingredient of the tobacco plant (nicotine) in liquefied form suitable for the induction of nicotine, whether by nasal spray, ingestion, smoking or other means, into the human body.

Violation of this section shall be an ordinance infraction for which the fine shall be a minimum of twenty-five dollars (\$25.00) and a maximum of one hundred dollars (\$100.00). In addition, the judge may require a person charged with violating this section to appear in court and/or may require completion of a tobacco education program.

**Sec. 5.7. Selling, Giving or Furnishing Cigarettes or Tobacco Products to Persons under 21.**

- (a) It shall be unlawful for any person, directly or indirectly, to:
  - (1) Sell, furnish or distribute cigarettes, electronic cigarettes, liquid nicotine or tobacco products to any person under twenty-one (21) years of age; or
  - (2) Buy any cigarettes, electronic cigarettes, liquid nicotine or tobacco products for any person under twenty-one (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, liquid nicotine or tobacco products to the person under twenty-one (21) years of age with reasonable cause to believe the person was of legal age to

- purchase or receive cigarettes, electronic cigarettes, liquid nicotine or tobacco products; and
- (3) To purchase or receive the cigarettes, electronic cigarettes, liquid nicotine or tobacco products, the person under twenty-one (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, liquid nicotine 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 twenty-one (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 twenty-one (21) or more years of age.
- (d) For the purposes of this section, the terms are defined in K.S.A. 79-3301 and amendments thereto, except liquid nicotine which is the active ingredient of the tobacco plant (nicotine) in liquefied form suitable for the induction of nicotine, whether by nasal spray, ingestion, smoking or other means, into the human body.
- (e) 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. (K.S.A. Supp. 79-3302, 79-3321, 79-3322.)
- (f) Violations of this section shall constitute a Class B violation punishable by a minimum fine of two hundred dollars (\$200.00).

D. AMENDMENT. That Section 6.8 of the Uniform Public Offence Code for Kansas Cities, 36th Edition shall be amended to read as follows:

**Sec. 6.8. Criminal Littering.** (a) Criminal littering is recklessly depositing or causing to be deposited any object or substance into, upon or about:

- (1) Any public street, highway, alley, road, right-of-way, park or other public place, or any lake, stream, watercourse, or other body of water, except by direction of some public officer or employee authorized by law to direct or permit such acts; or
  - (2) Any private property without the consent of the owner or occupant of such property.
- (b) Criminal littering is an unclassified offense punishable upon conviction by a fine of not less than \$100 nor more than \$2,500;
- (c) The provisions of Standard Traffic Ordinance Section 112.1, Littering from a motor vehicle, are excepted from the application of this section.

- (d) In addition to the fines in subsection (b), a person convicted of littering shall be required to pick up litter for a time prescribed by and at a place within the jurisdiction of the court. (K.S.A. 21-5815)

**SECTION 2.** That this ordinance shall become effective after its passage, approval and publication in the official city newspaper pursuant to KSA 12-3001, et seq.

**PASSED AND APPROVED** by the Governing Body this 13th day of October, 2020.

**APPROVED** by the Mayor this 13th day of October, 2020.

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Artie Stuteville, Mayor

ATTEST: [seal]

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Stephanie Marler, City Clerk