

ORDINANCE NO. 20-\_\_\_\_\_

AN ORDINANCE CREATING A NEW SECTION 213 (UNLAWFUL TRANSFER OF TOBACCO AND TOBACCO PRODUCTS) OF PART 2 (OTHER DANGEROUS WEAPONS AND SUBSTANCES) OF ARTICLE 7 (DANGEROUS WEAPONS AND SUBSTANCES) OF CHAPTER 9 (PUBLIC OFFENSES) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO THE UNLAWFUL TRANSFER OF TOBACCO AND TOBACCO PRODUCTS AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Section 213 (Unlawful Transfer of Tobacco and Tobacco Products) of Part 2 (Other Dangerous Weapons and Substances) of Article 7 (Dangerous Weapons and Substances) of Chapter 9 (Public Offenses) of the Code of the City of Colorado Springs 2001, as amended, is created to read as follows:

**9.7.213: UNLAWFUL TRANSFER OF TOBACCO AND TOBACCO PRODUCTS:**

A. As used in this section, "TOBACCO PRODUCT" means:

1. Any product which contains, is made or derived from tobacco or used to deliver nicotine, synthetic nicotine or other substances intended for human consumption, whether heated, chewed, applied to the skin, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means, including, but not limited to Cigarettes, Cigars, Little Cigars, chewing tobacco, pipe tobacco, snuff, bidis, snus, nicotine product, mints, hand gels;
2. Any device that can be used to deliver tobacco or nicotine to the person inhaling from the device, including an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen, or other electronic smoking device;
3. The term "Tobacco Product" does not include:
  - a. Any product that contains marijuana; and

b. Any product made from or derived from tobacco and approved by the Food and Drug Administration (FDA) for use in connection with cessation of smoking.

B. UNLAWFUL TRANSFER: It shall be unlawful for any person to knowingly dispense, sell, distribute, or transfer any tobacco or tobacco product to any person under the age of twenty-one (21).

C. AFFIRMATIVE DEFENSE: It shall be an affirmative defense to a prosecution under paragraph B of this section that the person furnishing the tobacco or tobacco product was presented with and reasonably relied upon a government-issued photographic identification that identified the individual receiving the tobacco or tobacco product as being twenty-one (21) years of age or older.

Section 2. Any person convicted of a violation of this Section 213 (Unlawful Transfer of Tobacco and Tobacco Products) of Article 7 (Dangerous Weapons and Substances) of Chapter 9 (Public Offenses) shall be punished as provided in Section 110 (Penalties) of Part 1 (General Provisions) of Article 1 (Administration and Enforcement) of Chapter 9 (Public Offenses) and Section 104 (Right to Trial by Jury; Jail; Exceptions) of Part 1 (Trial by Jury) of Article 4 (Jury Provisions) of Chapter 11 (Municipal Court) of the Code of the City of Colorado Springs 2001, as amended.

Section 3. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 4. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this \_\_\_\_  
day of \_\_\_\_\_, 2020.

**Finally passed:** \_\_\_\_\_

\_\_\_\_\_  
Council President

**Mayor's Action:**

- Approved on \_\_\_\_\_.
- Disapproved on \_\_\_\_\_, based on the following objections:

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Mayor

**Council Action After Disapproval:**

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of \_\_\_\_\_, on \_\_\_\_\_.
- Council action on \_\_\_\_\_ failed to override the Mayor's veto.

\_\_\_\_\_  
Council President

ATTEST:

\_\_\_\_\_  
Sarah B. Johnson, City Clerk