

## ORDINANCE NO. 2020-02

### AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF EAGLE GROVE, IOWA, BY AMENDING PROVISIONS PERTAINING TO TOBACCO USE

Be It Enacted by the City Council of the City of Eagle Grove, Iowa:

**SECTION 1. SECTION MODIFIED.** Section 46.02 of the Code of Ordinances of the City of Eagle Grove, Iowa, is repealed and the following adopted in lieu thereof:

**46.02 CIGARETTES AND TOBACCO.** It is unlawful for any person under 21 years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by an individual under 21 years of age shall not constitute a violation of this section if the individual under 21 years of age possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products.

*(Code of Iowa, Sec. 453A.2)*

**SECTION 2. SECTION MODIFIED.** Section 121.07 of the Code of Ordinances of the City of Eagle Grove, Iowa, is repealed and the following adopted in lieu thereof:

**121.07 PERSONS UNDER LEGAL AGE.** A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of \$300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

**SECTION 3. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 4. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council on the 17<sup>th</sup> day of August, 2020, and approved this 17<sup>th</sup> day of August, 2020.

Sanche McKeath  
Mayor

ATTEST:

Bryce Davis  
City Clerk

First Reading: August 17, 2020

Second Reading: Waived

Third Reading: Waived

I certify that the foregoing was published as Ordinance No. 2020-02 on the 27<sup>th</sup> day of August, 2020.

Bryce Davis  
City Clerk

**PUBLIC NOTICE  
City of Eagle Grove**

**PUBLIC NOTICE  
CITY OF EAGLE GROVE  
SUMMARY OF ORDINANCE  
NO. 2020-02  
AN ORDINANCE AMENDING THE  
CODE OF ORDINANCES OF THE  
CITY OF EAGLE GROVE, IOWA,  
BY AMENDING PROVISIONS  
PERTAINING TO TOBACCO USE. BE  
IT ENACTED BY THE CITY COUNCIL  
OF THE CITY OF  
EAGLE GROVE, IOWA,**

that on Aug. 17, 2020, the City Council of the City of Eagle Grove, Iowa passed the aforementioned ordinance and a summary is as follows: SECTION 1. SECTION MODIFIED. Section 46.02 of the Code of Ordinances of the City of Eagle Grove, Iowa, is repealed and the following adopted in lieu thereof: 46.02 CIGARETTES AND TOBACCO. It is unlawful for any person under 21 years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by an individual under 21 years of age shall not constitute a violation of this section if the individual under 21 years of age possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the Code of Iowa or who lawfully offers for sale or sells cigarettes or tobacco products. SECTION 2. SECTION MODIFIED. Section 121.07 of the Code of Ordinances of the City of Eagle Grove, Iowa, is repealed and the following adopted in lieu thereof: 121.07 PERSONS UNDER LEGAL AGE. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employ-

ee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following: 1. For a first violation, the retailer shall be assessed a civil penalty in the amount of \$300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days. 2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection. 3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days. 4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days. 5. For a fifth violation within a period of four years, the retailer's permit shall be revoked. The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard. SECTION 3: SEVERABILITY CLAUSE: If any section, provision, or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional. SECTION 4: WHEN EFFECTIVE: This Ordinance shall be in effect from and after its final passage, approval, and publication as provided by law. By the Order of the City Council of the City of Eagle Grove.  
Bryce Davis, City Clerk

Published in the Eagle Grove Eagle on Aug. 27, 2020.

**PROOF OF PUBLICATION**

**STATE OF IOWA** }  
**Wright County** } **SS.**

I, the undersigned, being duly sworn, depose and say, that I am Lynnette Richardson, Treasurer of the Eagle Grove Eagle, a weekly newspaper printed in the English language, published at Eagle Grove in Wright County, State of Iowa, and that the annexed City of Eagle Grove - Ordinance No. 2020-02 - Tobacco Use

notice was published in said paper once each week for 1 consecutive weeks, the first publication thereof was on the 27<sup>th</sup> day of August, 2020, the second on the \_\_\_ day of \_\_\_, 20\_\_\_, the third on the \_\_\_ day of \_\_\_, 20\_\_\_, the fourth on the \_\_\_ day of \_\_\_, 20\_\_\_,

Lynnette Richardson  
Lynnette Richardson, Treasurer

Subscribed and sworn to before me and in my presence the 15<sup>th</sup> day of October, 2020.

Madison Craighton  
Notary Public; In and for the State of Iowa



**MADISON T CRAIGHTON**  
Commission Number 813886  
My Commission Exp NOV. 20, 2021

Printer's Fees, \$ 40.60