

(First Published on _____, 2019)

THE CITY OF GARDEN PLAIN, KANSAS

ORDINANCE NO. 718

AN ORDINANCE PROHIBITING THE POSSESSION OF
VAPOR PRODUCTS BY MINORS

WHEREAS, the Governing Body, having determined, in the best interest of the health, safety and welfare of the citizens of Garden Plain, Kansas that the possession of vapor products by minors should be prohibited.

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

SECTION 1. Ordinance Number 714 of the City of Garden Plain, Kansas, is hereby amended to add the following definitions and offenses to the Uniform Public Offense Code, as adopted:

1.1 DEFINITIONS

Vapor Products. Any cartridge, pod or other container that may contain nicotine, cannabidiol, tetrahydrocannabinol or any other substance in a solution or other form that is intended to be used with or in an Electronic Cigarette. Vapor products do not include electronic cigarettes.

5.9 PURCHASE OR POSSESSION OF VAPOR PRODUCTS BY A MINOR

It shall be unlawful for any person:

- (a) Who is under 18 years of age to purchase or attempt to purchase vapor products; or
- (b) Who is under 18 years of age to possess or attempt to possess vapor products.
- (c) Violation of this section shall be an ordinance infraction for which the fine shall be \$200. In addition to or in lieu of the fine provided herein, the court may order that the juvenile perform community service of up to fifteen (15) hours and/or complete an educational course on the effects and dangers of vaping products. Any community service or educational course ordered by the court shall be completed not later than six months after the fine is imposed or by an earlier date specified by the court. The judge also may require the juvenile to appear in court with a parent or legal guardian.

5.10 SELLING, GIVING OR FURNISHING VAPOR PRODUCTS TO A MINOR

- (a) It shall be unlawful for any person to:
 - (1) Sell, furnish or distribute vapor products to any person under 18 years of age; or
 - (2) Buy any vapor products for any person under 18 years of age.
- (a) It shall be a defense to a prosecution under this section if:
 - (1) The defendant sold, furnished or distributed vapor products to the person under 18 years of age with reasonable cause to believe the person was of legal age to purchase or receive vapor products; and
 - (2) To purchase or receive the vapor products, the person under 18 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 vapor products.
 - (3) For purposes of this section, the person who violates this section shall be the individual directly selling, furnishing or distributing the vapor products to any person under 18 years of age or the retail dealer who has actual knowledge of such selling, furnishing or distributing by such individual or both.
- (a) It shall be a defense to a prosecution under this subsection if:
 - (1) The defendant engages in the lawful sale, furnishing or distribution of vapor products by mail; and
 - (2) The defendant sold, furnished or distributed the vapor 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 18 or more years of age.
- (a) As used in this section, **sale** means any transfer of title or possession or both, exchange, barter, distribution or gift of vapor products, with or without consideration.
- (b) Violation of this section shall constitute a Class B violation punishable by a minimum fine of \$200.

SECTION 2. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 3. This Ordinance will take effect and be in force from and after its publication in the official city newspaper.

Passed and approved by the Governing Body of the City of Garden Plain, Kansas, this 4 day of December, 2019.

Approved by the Mayor this 4 day of December, 2019.



Kevin Hammond
Kevin Hammond, Mayor

Kimberly McCormick
Kimberly McCormick, City Clerk.

