

## **ORDINANCE NO. 8337**

**AN ORDINANCE OF THE CITY OF KEARNEY, NEBRASKA TO AMEND SECTION 8-1515 "TOBACCO; POSSESSION BY MINORS; UNLAWFUL" OF ARTICLE 15 "GENERAL OFFENSES" OF CHAPTER 8 "POLICE" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA; TO ADD LANGUAGE DESCRIBED IN NEBRASKA REVISED STATE STATUTE 28-1418 INCLUDING VAPOR PRODUCTS AND ALTERNATIVE NICOTINE PRODUCTS; TO AMEND SECTION 8-1516 "TOBACCO; POSSESSION BY MINORS; PENALTY" OF ARTICLE 15 "GENERAL OFFENSES" OF CHAPTER 8 "POLICE" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA; TO ADD LANGUAGE DESCRIBED IN NEBRASKA REVISED STATE STATUTE 28-1419 INCLUDING VAPOR PRODUCTS AND ALTERNATIVE NICOTINE PRODUCTS TO PROVIDE THAT THIS ORDINANCE SHALL BE MADE A PART OF THE CODE OF THE CITY OF KEARNEY; TO REPEAL ALL ORDINANCES AND RESOLUTIONS OR PARTS THEREOF IN CONFLICT HERewith AND TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR PUBLICATION IN PAMPHLET FORM BY AUTHORITY OF THE CITY COUNCIL AND EFFECTIVE DATE OF THIS ORDINANCE.**

**BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF KEARNEY, NEBRASKA:**

**Section 1.** That Section 8-1515 "Tobacco; Possession by Minors; Unlawful" of Article 15 "General Offenses" of Chapter 8 "Police" of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

### **8-1515 - TOBACCO; POSSESSION BY MINORS; UNLAWFUL**

It shall be unlawful for any person under the age of eighteen (18) years to possess or use cigarettes or cigars, vapor products, electronic cigarettes, or alternative nicotine projects, or use tobacco in any form whatever; provided that the possession by a person under the age of eighteen (18) years under the supervision of the parent or guardian of such person in the privacy of the parent's or guardian's home, or when required in the performance of a person's duty as an employee, shall not be prohibited. Tobacco products shall be defined to mean any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, vapor products, electronic cigarettes, or alternative nicotine products.

**State Law reference**— Similar provisions, Neb. Rev. Stat. 28-1418

**Section 2.** That Section 8-1516 "Tobacco; Possession by Minors; Penalty" of Article 15 "General Offenses" of Chapter 8 "Police" of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

### **8-1516 - TOBACCO; POSSESSION BY MINORS; PENALTY**

Any person or persons violating the provisions of Section 8-1515 shall be deemed guilty of an infraction and, upon conviction, shall be punished in accordance with Section 1-112 of this Code, except

that the minimum fine for a first offense shall be \$35.00. Each distinct act or violation of the terms of Section 8-1515 shall constitute a separate offense. The City Prosecutor shall have discretion to dismiss charges against any minor charged with violation of Section 8-1515 when the said minor has furnished evidence for the conviction of the person or persons selling or giving him/her the tobacco in any form whatever, or any cigarettes, cigarette paper, vapor products, or alternative nicotine products.

**State Law reference**— Similar provisions, Neb. Rev. Stat. 28-1419

**Section 3.** It is the intention of the City Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Code of the City of Kearney, Nebraska, and the sections of this Ordinance may be renumbered to accomplish such intention.

**Section 4.** That all ordinances and resolutions or parts of ordinances and resolutions in conflict herewith are hereby repealed.

**Section 5.** If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council of the City of Kearney hereby declare that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

**Section 6.** This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law and shall be published in pamphlet form by authority of the City Council.

**INTRODUCED BY COUNCIL MEMBER \_\_\_\_\_**  
**PASSED AND APPROVED THIS 23RD DAY OF APRIL, 2019.**

**ATTEST:**

\_\_\_\_\_  
**STANLEY A. CLOUSE**  
**PRESIDENT OF THE COUNCIL**  
**AND EX-OFFICIO MAYOR**

\_\_\_\_\_  
**LAUREN BRANDT,**  
**CITY CLERK**