

ORDINANCE NO. 2

Series 2015

AN ORDINANCE AMENDING CHAPTER 3F OF TITLE 6 OF THE BRECKENRIDGE TOWN CODE BY PROHIBITING THE FURNISHING OF CIGARETTES, TOBACCO PRODUCTS, AND NICOTINE PRODUCTS TO PERSONS UNDER EIGHTEEN YEARS OF AGE; AND PROHIBITING THE POSSESSION OF CIGARETTES, TOBACCO PRODUCTS, AND NICOTINE PRODUCTS BY PERSONS UNDER EIGHTEEN YEARS OF AGE; AND PROVIDING PENALTIES FOR VIOLATIONS OF SUCH PROHIBITIONS

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. Sections 6-3F-12 and 6-3F-13 of the Breckenridge Town Code are repealed.

Section 2. Chapter 3F of Title 6 of the Breckenridge Town Code is amended by the addition of a new Section 6-3F-12, which shall read in its entirety as follows:

6-3F-12: FURNISHING CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS TO MINORS PROHIBITED:

(1) (a) As used in this section, "cigarette, tobacco product, or nicotine product" means:

(I) A product that contains nicotine or tobacco or is derived from tobacco and is intended to be ingested or inhaled by or applied to the skin of an individual; or

(II) Any device that can be used to deliver tobacco or nicotine to the person inhaling from the device, including, but not limited to, an electronic smoking device as defined in Section 5-9-2 of this Code.

(b) Notwithstanding any provision of paragraph (a) of this subsection (1) to the contrary, "cigarette, tobacco product, or nicotine product" does not mean a product that the Food and Drug Administration of the United States Department of Health and Human Services has approved as a tobacco use cessation product.

(2) (a) A person shall not give, sell, distribute, dispense, or offer for sale a cigarette, tobacco product, or nicotine product to any person who is under eighteen years of age.

(b) Before giving, selling, distributing, dispensing, or offering to sell to any an individual any cigarette, tobacco product, or nicotine product, a person shall request from the individual and examine a government-issued photographic identification that establishes that the individual is eighteen years of age or older; except that, in face-to-face transactions, this requirement is waived if the individual appears older than thirty years of age.

(c) A person who violates paragraph (a) or (b) of this subsection (2) commits an infraction and, upon an entry of judgment for such violation, shall be punished by a fine of two hundred dollars.

(d) It is an affirmative defense to a prosecution under paragraph (a) of this subsection (2) that the person furnishing the cigarette, tobacco product, or nicotine product was presented with and reasonably relied upon a document that identified the individual receiving the cigarette, tobacco product, or nicotine product as being eighteen years of age or older.

(3) (a) A person who is under eighteen years of age and who purchases or attempts to purchase any cigarette, or tobacco products, or nicotine product commits an infraction and, upon entry of judgment for such violation, shall be punished by a fine of one hundred dollars. For a first offense under this paragraph (3)(a) the Municipal Court, in lieu of a fine, may sentence the person to participate in a tobacco education program.

(b) It is not an offense under paragraph (a) of this subsection (3) if the person under eighteen years of age was acting at the direction of an employee of a governmental agency authorized to enforce or ensure compliance with laws relating to the prohibition of the sale of cigarettes, and tobacco products, or nicotine products to minors.

Section 3. Chapter 3F of Title 6 of the Breckenridge Town Code is amended by the addition of a new Section 6-3F-13, which shall read in its entirety as follows:

6-3F-13: POSSESSION OF CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS BY MINORS PROHIBITED:

(1) As used in this section, unless the context otherwise requires:

(a) "Cigarette, tobacco product, or nicotine product" has the same meaning as set forth in Section 6-3F-12(1)(a) of this Code. Notwithstanding any provision of paragraph (a) of this subsection (1) to the contrary, "cigarette, tobacco product, or nicotine product" does not mean a product that the Food and Drug Administration of the United States Department of Health and Human Services has approved as a tobacco use cessation product.

(b) "Possession" means that a person:

(I) Has or holds any amount of cigarettes, tobacco products, or nicotine products anywhere on his or her person;

(II) Owns or has custody of cigarettes, tobacco products, or nicotine products; or

(III) Has cigarettes, tobacco products, or nicotine products within his or her immediate presence and control.

(2)(a) Possession of a cigarette, tobacco product, or nicotine product by a person who is under eighteen years of age is an infraction and, upon entry of judgment for such violation, shall be punished by a fine of one hundred dollars. For a first offense under this paragraph (2)(a) the Municipal Court, in lieu of a fine, may sentence the person to participate in a tobacco education program.

(b) It is not an offense under paragraph (a) of this subsection (2) if the person under eighteen years of age was acting at the direction of an employee of a governmental agency authorized to enforce or ensure compliance with laws relating to the prohibition of the sale of cigarettes, tobacco products or nicotine products to minors.

Section 4. Section 6-3-2 of the Breckenridge Town Code is amended to read as follows:

6-3-2: FINES AND PENALTIES

Every person convicted of a violation of any provision of this chapter shall be punished as provided in Chapter 4 of Title 1 of this code.

Section 5. Except as specifically amended by this ordinance, the Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

Section 6. The Town Council finds, determines and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.

Section 7. The Town Council finds, determines and declares that it has the power to adopt this ordinance pursuant to: (i) Section 18-13-121, C.R.S.; (ii) Section 25-14-301, C.R.S.; (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv) Section 31-15-401, C.R.S. (concerning municipal police powers); (v) the authority granted to home rule municipalities by Article XX of the Colorado Constitution; and (vi) the powers contained in the Breckenridge Town Charter.

Section 8. The Town Council finds, determines and declares that it has the power to

adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

Section 9. This ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 13th day of January, 2015.

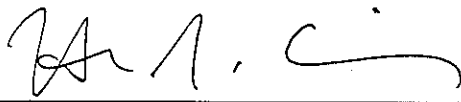
This ordinance was published in full on the Town of Breckenridge website on January 14, January 15, January 16, January 17 and January 18, 2015.

A public hearing on this ordinance was held on January 27, 2015.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 27th day of January, 2015. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE

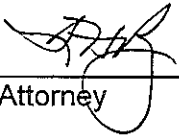


Helen Cospolich, Town Clerk



John G. Warner, Mayor

APPROVED IN FORM



Town Attorney

1/27/15

Date

This Ordinance was published on the Town of Breckenridge website on January 28, January 29, January 30, January 31 and February 1, 2015. This ordinance shall become effective on March 3, 2015.