

ORDINANCE NO. 4

Series 2015

AN ORDINANCE AMENDING CHAPTER 9 OF TITLE 5 OF THE BRECKENRIDGE TOWN CODE; MAKING ELECTRONIC SMOKING DEVICES SUBJECT TO THE TOWN'S "SMOKING ORDINANCE"; AND AMENDING THE LIST OF INDOOR AND OUTDOOR AREAS OF THE TOWN WHERE SMOKING IS PROHIBITED

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

Section 1. Section 5-9-1(A) of the Breckenridge Town Code is amended by the addition of a new subsection (5) as follows:

5. Current evidence suggests that the use of electronic smoking devices, including, without limitation, electronic cigarettes, increases the exposure of bystanders to potentially harmful exhaled aerosol toxicants, and further reduces the incentive for smokers to quit using tobacco products. In addition, the use of electronic smoking devices in places where smoking is currently prohibited may frustrate the reasonable expectation of bystanders in such places that there will be no risk increase from any product in the air they breathe, even though there may be some degree of diminished risk from the use of electronic smoking devices in comparison to second-hand smoke.

Section 2. Section 5-9-1(B) of the Breckenridge Town Code is amended to read as follows:

B. The Town Council hereby declares that the purpose of this chapter is to preserve and improve the health, comfort, and environment of the people of the town by limiting exposure to environmental tobacco smoke.

Section 3. The definition of "Bar" in Section 5-9-2 of the Breckenridge Town Code is amended to read as follows:

BAR: Any area that is operated and licensed under article 47 of title 12, Colorado Revised Statutes, primarily for the sale and service of alcohol beverages for on premises consumption and where the service of food is secondary to the consumption of such beverages. "Bar" includes, without limitation, any outdoor area operated as part of the licensed premises.

Section 4. The definition of "Environmental Tobacco Smoke" in Section 5-9-2 of the Breckenridge Town Code is amended to read as follows:

ENVIRONMENTAL TOBACCO AND MARIJUANA SMOKE: The complex mixture formed from the escaping smoke of burning tobacco or marijuana, and smoke exhaled by the smoker. "Environmental Tobacco Smoke" also includes the escaping vapor or aerosol of an electronic smoking device, also known as "side stream smoke," and vapor or aerosol exhaled by the smoker.

Section 5. The definition of "Food Service Establishment" in Section 5-9-2 of the Breckenridge Town Code is amended to read as follows:

FOOD SERVICE ESTABLISHMENT: Any area or portion thereof in which the principal business is the sale of food for on premises consumption. The term includes, without limitation, restaurants, cafeterias, coffee shops, diners, sandwich shops, and short order cafes. "Food Service Establishment" includes, without limitation, any outdoor area operated as part of the business.

Section 6. The definition of "Smoking" in Section 5-9-2 of the Breckenridge Town Code is amended to read as follows:

SMOKING: (i) The burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco or marijuana, or (ii) the active use of an electronic smoking device.

Section 7. The definition of "Tobacco" in Section 5-9-2 of the Breckenridge Town Code is amended to read as follows:

TOBACCO: Cigarettes, cigars, cheroots, stogies, and periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. "Tobacco" also includes cloves and any other plant matter or product that is packaged for smoking, and tobacco prepared, treated, or modified in such a manner that it may be ingested through the use of an electronic smoking device.

Section 8. Section 5-9-2 of the Breckenridge Town Code is amended by the addition of the following definitions:

ELECTRONIC SMOKING DEVICE: An electric or battery-operated device, the use of which resembles conventional smoking, which can be used to deliver a vapor of nicotine, vapor of a solution including nicotine, or aerosol of a solution including nicotine, or any other substance or flavor for inhalation. Electronic smoking device shall include, without limitation, an electronic cigarette, cigar, cigarillo, pipe, hookah, or any similar device. The term "electronic smoking device" does not include any device specifically approved by the United States Food and Drug Administration for use as a tobacco use cessation product, when such device is being used solely for such approved purpose.

ENTRYWAY: The outside of a public doorway leading into a building or facility that is not exempted from this Chapter under Section 5-9-4. "Entryway" also includes the area of public or private property within a ten (10) foot radius outside of the doorway.

Section 9. Section 5-9-3 of the Breckenridge Town Code is amended to read as follows:

5-9-3: GENERAL SMOKING RESTRICTIONS:

A. Except as provided in section 5-9-4 of this chapter, and in order to reduce the levels of exposure to environmental tobacco and marijuana smoke, smoking shall not be permitted and no person shall smoke in any indoor area, including, but not limited to:

1. Public meeting places;

2. Elevators;

3. Government owned or operated means of mass transportation, including, but not limited to, buses, vans, trains, indoor public transit facilities and waiting areas, and transit shelters;
4. Taxicabs and limousines;
5. Gondolas;
6. Grocery stores;
7. Gymnasiums;
8. Jury waiting and deliberation rooms;
9. Courtrooms;
10. Child daycare facilities;
11. Healthcare facilities including hospitals, healthcare clinics, doctor's offices, and other healthcare related facilities;
12. Retail stores;
13. Food service establishments;
14. Bars;
15. Indoor sports arenas and facilities;
16. Restrooms, lobbies, hallways, and other common areas in public and private buildings, condominiums, and other multiple-unit residential facilities;
17. Restrooms, lobbies, hallways, and other common areas in hotels and motels, and in at least seventy five percent (75%) of the sleeping quarters within a hotel or motel that are rented to guests;
18. Bowling alleys;
19. Billiard or pool halls;
20. Facilities in which games of chance are conducted;
21. The common areas of retirement facilities, publicly owned housing facilities, and nursing homes, not including any resident's private residential quarters;
22. Public buildings;
23. Auditoria;
24. Theaters;
25. Museums;
26. Libraries;
27. To the extent not otherwise provided in section 25-14-103.5, Colorado Revised Statutes, public and nonpublic schools;
28. Other educational and vocational institutions;
29. Town owned motor vehicles; and
30. Any place of employment that is not exempted. In the case of employers who own facilities otherwise exempted from this chapter, each such employer shall provide a smoke free work area for each employee requesting not to have to breathe

environmental tobacco and marijuana smoke. Every employee shall have a right to work in an area free of environmental tobacco and marijuana smoke.

B. In order to reduce the levels of exposure to environmental tobacco and marijuana smoke, smoking shall not be permitted and no person shall smoke in any of the following outdoor areas:

1. The entryways of all buildings and facilities listed in Subsection A of this Section.
2. Town owned parks and open space areas;
3. Town owned outdoor sporting and athletic fields and facilities;
4. The Town of Breckenridge public golf course grounds and buildings, excluding the course of play; and
5. The paved recreational pathway running generally northerly and southerly within the Town commonly known as the "bike path."
6. Within a ten (10) foot radius of a public transit facility waiting area.

Section 10. Section 5-9-4(E) of the Breckenridge Town Code is repealed.

Section 11. Section 5-9-4(D) of the Breckenridge Town Code is amended to read as follows:

D. The indoor area of any retail tobacco business.

Section 5-9-4(D) of the Breckenridge Town Code is deleted.

Section 12. Section 5-9-4(F) of the Breckenridge Town Code is amended to read as follows:

F. The outdoor area of any business, except as provided in Section 5-9-3(B).

Section 13. 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 14. 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 15. 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 16. 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.

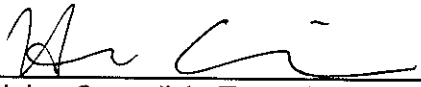
This ordinance was published in full on the Town of Breckenridge website on January 14, January 15, January 16, January 17 and January 18, 2015.

A public hearing on this ordinance was held on February 10, 2015.

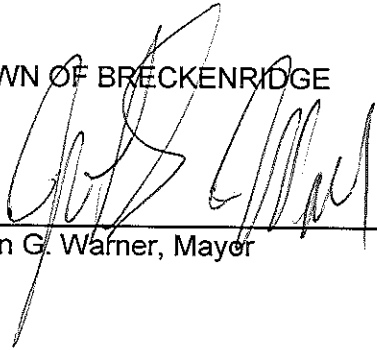
READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE
TOWN'S WEBSITE this 10th day of February, 2015. A copy of this Ordinance is available for
inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE



Helen Cospolich, Town Clerk



John G. Warner, Mayor

APPROVED IN FORM



Town Attorney

2/10/15

Date

This Ordinance was published on the Town of Breckenridge website on February 12, February 13, February 14, February 15 and February 16, 2015. This ordinance shall become effective on March 13, 2015.