

ORDINANCE NO. 25

Series 2019

AN ORDINANCE AMENDING ARTICLE F OF CHAPTER 3 OF TITLE 6 OF THE  
BRECKENRIDGE TOWN CODE CONCERNING TOBACCO PRODUCTS

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

Section 1. Section 6-3F-12 of the Breckenridge Town Code is amended to read as follows:

6-3F-12: FURNISHING TOBACCO PRODUCTS TO MINORS PROHIBITED:

A. 1. As used in this section, "tobacco product" means:

a. any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;

b. any electronic smoking device as defined in section 5-9-2, and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or

c. any component, part, or accessory of subsection (a) or (b), whether or not these items contain tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, and pipes.

2. Notwithstanding any provision of subsection A1 of this section to the contrary, "tobacco product" does not mean drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

B. 1. A person shall not give, sell, distribute, dispense, or offer for sale a tobacco product to any person who is under twenty one (21) years of age.

2. Before giving, selling, distributing, dispensing, or offering to sell to any individual any tobacco product a person shall request from the individual and examine a government issued photographic identification that establishes that the individual is twenty one (21) years of age or older; except that, in face to face transactions, this requirement is waived if the individual appears older than thirty (30) years of age.

3. A person who violates subsection B1 or B2 of this section commits an infraction and, upon an entry of judgment for such violation, shall be punished by a fine of two hundred dollars (\$200.00).

4. It is an affirmative defense to a prosecution under subsection B1 of this section that the person furnishing the tobacco product was presented with and reasonably relied upon a document that identified the individual receiving the tobacco product as being twenty one (21) years of age or older.

C. 1. A person who is under twenty one (21) years of age and who purchases or attempts to purchase any tobacco product commits an infraction and, upon entry of judgment for such violation, shall be punished by a fine of one hundred dollars (\$100.00). For a first offense under this subsection C1 the municipal court, in lieu of a fine, may sentence the person to participate in a tobacco education program.

2. It is not an offense under subsection C1 of this section if the person under twenty one (21) 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 tobacco products to minors.

Section 2. Section 6-3F-13 of the Breckenridge Town Code is amended to read as follows:

6-3F-13: POSSESSION OF TOBACCO PRODUCTS BY MINORS PROHIBITED:

A. As used in this section, unless the context otherwise requires:

1. "Tobacco product" has the same meaning as set forth in subsection 6-3F-12A1 of this article. Notwithstanding any provision of this subsection A1 to the contrary, "tobacco product" does not mean drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

2. "Possession" means that a person:

a. Has or holds any tobacco product anywhere on his or her person;

b. Owns or has custody of a tobacco product; or

c. Has a tobacco product within his or her immediate presence and control.

B. 1. Possession of a tobacco product by a person who is under twenty one (21) years of age is an infraction and, upon entry of judgment for such violation, shall be punished by a fine of one hundred dollars (\$100.00). For a first offense under this subsection B1 the municipal court, in lieu of a fine, may sentence the person to participate in a tobacco education program.

2. It is not an offense under subsection B1 of this section if the person under twenty one (21) 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 tobacco products to minors.

Section 3. Except as specifically amended hereby, the Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

Section 4. The Town Council hereby 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 5. The Town Council hereby 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) Article 30 of Title 29; (iv) Section 31-15-103, C.R.S. (concerning municipal police powers); (v) Section 31-15-401, C.R.S. (concerning municipal police powers); (vi) the authority granted to home rule municipalities by Article XX of the Colorado Constitution; and (vii) the powers contained in the Breckenridge Town Charter.

Section 6. The Town Council hereby 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 7. 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 August, 2019.

This ordinance was published in full on the Town of Breckenridge website on August 16, August 17, August 18, August 19 and August 20, 2019.

A public hearing on this ordinance was held on August 27, 2019.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE  
TOWN'S WEBSITE this 27th day of August, 2019. A copy of this Ordinance is available for  
inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE

\_\_\_\_\_/s/\_\_\_\_\_  
Helen Cospolich, CMC, Town Clerk

\_\_\_\_\_/s/\_\_\_\_\_  
Eric S. Mamula, Mayor

APPROVED IN FORM

\_\_\_\_\_/s/\_\_\_\_\_  
Town Attorney                      Date

This Ordinance was published on the Town of Breckenridge website on August 29, August 30, August 31, September 1 and September 2, 2019. This ordinance shall become effective on October 2, 2019.