

**TOWN OF FREDERICK, COLORADO
ORDINANCE NO. 1168**

**AN ORDINANCE OF THE TOWN OF FREDERICK, COLORADO, AMENDING
SECTION 10-251 OF THE FREDERICK MUNICIPAL CODE WITH REGARD
TO CIGARETTES, TOBACCO PRODUCTS AND NICOTINE PRODUCTS.**

WHEREAS, the use of cigarettes, tobacco products, or nicotine products creates dangerous risks to the health of the people of the State of Colorado and the Town of Frederick; and

WHEREAS, studies have shown that most people who use cigarettes, tobacco products, or nicotine products started using them before the age of eighteen; and

WHEREAS, the costs of health care for persons suffering from diseases caused by the use of cigarettes, tobacco products, or nicotine products are borne by all people of the State of Colorado; and

WHEREAS, it is the intent of the Board of Trustees to extend the current local restrictions on the sale and possession of cigarettes and tobacco products, to include nicotine products and devices that can be used to deliver tobacco or nicotine to the person inhaling from the device.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FREDERICK, COLORADO, AS FOLLOWS:

Section 1. Section 10-251 of the Frederick Municipal Code is hereby repealed in its entirety and reenacted to read as follows:

“10-251 Cigarettes, tobacco products and nicotine products.

(a) It is unlawful for any person to knowingly furnish to any person who is under eighteen (18) years of age, by gift, sale, distribution, dispensing, offering for sale or by any other means, any cigarettes, tobacco products or nicotine products.

(b) It shall be an affirmative defense to a prosecution under this Subsection that the person furnishing the cigarettes, tobacco products or nicotine products was presented with and reasonably relied upon a document which identified the person receiving the cigarettes, tobacco product or nicotine products as being eighteen (18) years of age or older.

(c) It is unlawful for any person who is under eighteen (18) years of age to purchase or attempt to purchase any cigarettes, tobacco products or nicotine products.

(d) It is unlawful for any person who is under eighteen (18) years of age to possess any cigarettes, tobacco products or nicotine products.

(e) It is not an offense under paragraphs (c) and (d) above 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.

(f) As used in this Section, “cigarette, tobacco product, or nicotine product” means:

(1) 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

(2) Any device that can be used to deliver tobacco or nicotine to the person inhaling from the device, including an electronic cigarette, cigar, cigarillo, or pipe.

(g) Notwithstanding any provision of paragraph (f) 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.

(h) Subsections (a), (c) and (d) of this Section are designated as noncriminal violations."

Section 2. Effective Date. This ordinance shall be published and become effective as provided by law.

Section 3. Severability. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the Ordinance. The Board of Trustees hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentence, clauses or phrases be declared invalid.

Section 4. Violations and Penalties.

(a) It shall be a violation of this ordinance for any person to do any act which is forbidden or declared to be unlawful, or to fail to do or perform any act required in this ordinance.

(b) Any person, firm or corporation convicted of violating the terms or conditions of the ordinance adopted hereby is guilty of a civil violation and upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00). Each day during which such violation continues shall be deemed a separate offense.

(c) In addition to any of the foregoing remedies, the Town Attorney, acting in behalf of the Town Board, may institute injunction, abatement, or any other appropriate action to prevent, enjoin, abate or remove such violations. The remedy provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies.

Section 5. Repealer. All ordinances or resolutions, or parts thereof, in conflict with this ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

Section 6. Certification. The Town Clerk shall certify to the passage of this ordinance and make not less than one copy of the adopted Code available for inspection by the public during regular business hours.

INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED THIS 22ND.

DAY OF APRIL, 2014.

ATTEST:

TOWN OF FREDERICK

By *Meghan Martinez*
Meghan Martinez, Town Clerk



Tom Claffey
Tom Claffey, Mayor