

TOWN OF ERIE
ORDINANCE NO. ____-2020

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF
ERIE AMENDING THE ERIE MUNICIPAL CODE REGARDING
POSSESSION AND CONSUMPTION OF TOBACCO PRODUCTS AND
NICOTINE PRODUCTS BY PERSONS UNDER THE AGE OF 21 YEARS**

WHEREAS, House Bill 19-1033, effective July 1, 2019, authorized the Town to prohibit persons under the age of 21 years from purchasing "any cigarettes, tobacco products, or nicotine products" and to impose requirements more stringent than those currently provided by state law;

WHEREAS, the U.S. Department of Health and Human Services has found that approximately 96% of adult smokers begin smoking before age 21, with most beginning before age 16;

WHEREAS, the Board of Trustees finds that the use of tobacco products by persons under the age of 21 years presents grave health risks, including without limitation nicotine addiction; and

WHEREAS, the Board of Trustees finds that this Ordinance furthers and is necessary for the protection of the public health, safety, and welfare.

**NOW BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF
ERIE, COLORADO, THAT:**

Section 1. Section 6-10-8(A) of the Erie Municipal Code is hereby amended as follows:

Sec. 6-10-8. CIGARETTE AND TOBACCO PRODUCTS:

A. Prohibitions:

1. Providing to UNDERAGE PERSONS ~~Minors~~: It is unlawful for any person to knowingly furnish to any person who is under TWENTY-ONE (21) ~~eighteen (18)~~ years of age, by gift, sale, or any other means, any cigarettes or tobacco products. It shall be an affirmative defense to a prosecution under this subsection A1 that the person furnishing the cigarettes or tobacco product was presented with and reasonably relied upon a document which identified the person receiving the cigarettes and/or tobacco product as being TWENTY-ONE (21) ~~eighteen (18)~~ years of age or older.

2. Purchase by UNDERAGE PERSONS ~~Minors~~: It is unlawful for any person who is under TWENTY-ONE (21) ~~eighteen (18)~~ years of age to purchase or attempt to purchase any cigarettes or tobacco products.

3. Possession by UNDERAGE PERSONS ~~Minors~~: It is unlawful for any person who is under TWENTY-ONE (21) ~~eighteen (18)~~ years of age to possess any cigarettes or tobacco products. No person shall sell or offer to sell any nicotine

product or tobacco product by use of a vending machine; provided that it is a specific defense to a charge of violating this Section that the vending machine was located in a place of work not open to the public where persons under twenty-one (21) years of age are not permitted.

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Section 2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

Section 3. Safety. The Board of Trustees finds that the adoption of this Ordinance is necessary for the protection of the public health, safety and welfare.

Section 4. Effective Date. This Ordinance shall take effect 30 days after publication following adoption.

INTRODUCED, READ, PASSED AND ORDERED PUBLISHED this 9th day of June, 2020.

Jennifer Carroll, Mayor

ATTEST:

Heidi Leatherwood, Town Clerk