

TOWN OF SUPERIOR  
ORDINANCE NO. O-11  
SERIES 2019

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF  
SUPERIOR AMENDING THE SUPERIOR MUNICIPAL CODE  
REGARDING POSSESSION AND CONSUMPTION OF TOBACCO  
PRODUCTS AND NICOTINE PRODUCTS BY MINORS

WHEREAS, House Bill 19-1033, effective July 1, 2019, authorizes the Town to prohibit minors 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 age 21 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, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR, COLORADO, as follows:

Section 1. Section 7-3-60 of the Superior Municipal Code is hereby repealed in its entirety and reenacted as follows:

**Sec. 7-3-60. Sale of tobacco products and nicotine 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.

**Section 2.** Section 10-11-30 of the Superior Municipal Code is hereby repealed in its entirety and reenacted as follows:

**Sec. 10-11-30. Nicotine products and tobacco products.**

(a) Definitions. For purposes of this Section, the following terms shall have the following meanings:

(1) *Tobacco product* means a product that contains nicotine or tobacco or is derived from tobacco and is intended to be ingested, inhaled, smoked, placed in the oral or nasal cavities, or applied to the skin of an individual, including without limitation cigarettes, cigars, cigarillos, kreteks, bidis, hookah, and pipes; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour, snus, plug and twist, fine-cut, and other chewing or dipping tobacco; shorts, refuse scraps, clippings, cuttings, and seepings of tobacco; and any other kinds and forms of tobacco, prepared in such manner as to be suitable for both chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. Tobacco product also includes cloves and any other plant matter or product that is packaged for smoking.

(2) *Nicotine product* means an electronic device or any component thereof that can be used to deliver nicotine to the person inhaling from the device, including without limitation an electronic cigarette, cigar, cigarillo, hookah, pipe, or nicotine vaporizer; and nicotine or other chemical liquids, extracts, and oils intended to be used therein.

(b) It is unlawful for any person under the age of twenty-one (21) years of age to possess or consume any nicotine product or tobacco product.

(c) No person shall furnish to any person who is under twenty-one (21) years of age, by gift, sale or other means, any nicotine product or tobacco product; provided that it is an affirmative defense to a charge of violating this subsection that the person furnishing the nicotine product or tobacco product was presented with and reasonably relied upon a document which identified the person receiving the prohibited items as being at least twenty-one (21) years of age.

(d) It is unlawful for a person under the age of twenty-one (21) years to attempt to purchase or obtain, either directly or through an intermediary, any nicotine product or tobacco product.

**Section 3. 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

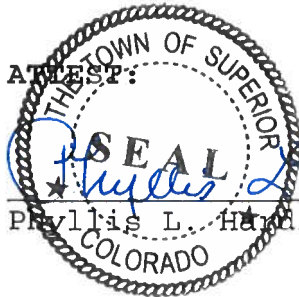
each part or parts hereof irrespective of the fact that any one or part or parts be declared unconstitutional or invalid.

Section 4. Safety. This Ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

INTRODUCED, READ, PASSED AND ORDERED PUBLISHED this 14<sup>th</sup> day of October, 2019.

*Clint Folsom*

Clint Folsom, Mayor



Phyllis L. Hardin, Town Clerk-Treasurer