

CITY OF GREELEY, COLORADO
ORDINANCE NO. 1, 2024

**ORDINANCE AMENDING TITLE 8, CHAPTER 9 AND TITLE 14, CHAPTER 10 OF THE
GREELEY MUNICIPAL CODE RELATING TO THE SALE OF TOBACCO PRODUCTS**

WHEREAS, on December 20, 2019, the President signed legislation to amend the Federal Food, Drug and Cosmetic Act, in order to raise the federal minimum purchase age for tobacco products from 18 years of age to 21 years of age; and

WHEREAS, the Colorado General Assembly amended the Colorado Revised Statutes to increase the minimum age to 21 to purchase tobacco products in Colorado in 2020; and

WHEREAS, the City of Greeley (“City”) is a Colorado home rule municipality, with all powers and authority vested under Colorado law; and

WHEREAS, state law allows home rule municipalities to enact ordinances regulating the sale of cigarettes, tobacco products and nicotine products, provided the minimum age to purchase these products is not less than 21; and

WHEREAS, the definitions within state law have been broadened to include cigarette and nicotine products; and

WHEREAS, state law does not allow the sale of cigarettes, tobacco products or nicotine products from a vending machine except in a licensed gaming establishment; and

WHEREAS, gaming establishments are not permitted within the City of Greeley, therefore it is in the best interests of the citizens of the City to ban the sale of cigarettes, tobacco products and nicotine products from vending machines within the City; and

WHEREAS, the recommended amendments to the Greeley Municipal Code would bring the City’s Code into compliance with federal and state law; and

WHEREAS, after review of these recommended changes, Council believes that it is in the best interest of the citizens of the City of Greeley that this ordinance be adopted.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF GREELEY,
COLORADO:**

Section 1. That Sections 8-307, 8-308 and 8-309 contained in Chapter 9, Sale of Tobacco Products of Title 8, Business Taxes, Licenses and Regulations, of the Greeley Municipal Code shall be amended as shown in Appendix A, attached hereto and incorporated herein.

Section 2. That Section 14-334 contained in Chapter 10, Offenses by or Against Minors, of Title 14, Criminal Conduct and Offenses, of the Greeley Municipal Code shall be amended as shown in Appendix A.

Section 3. This Ordinance shall take effect on the fifth day following its final publication, as provided by Section 3-16 of the Greeley City Charter.

PASSED AND ADOPTED, SIGNED AND APPROVED ON THIS 6th DAY OF FEBRUARY 2024.

ATTEST:



THE CITY OF GREELEY, COLORADO

By:

City Clerk

By:

APPENDIX A
Ordinance No. 1, 2024

**ORDINANCE AMENDING TITLE 8, CHAPTER 9 AND TITLE 14, CHAPTER 10 OF THE
GREELEY MUNICIPAL CODE RELATING TO THE SALE OF TOBACCO PRODUCTS**

Section 1. Sections 8-307, 8-308 and 8-309 contained in Chapter 9, Sale of Tobacco Products, of Title 8, Business Taxes, Licenses and Regulations, of the Greeley Municipal Code, shall be amended to read as follows:

Sec. 8-307. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section:

~~Minor means any natural person who is under 18 years of age.~~

~~Public place means any area or premises open to the public, including, but not limited to, restaurants, retail stores, laundromats, theaters, banks, public conveyances, educational facilities, recreational facilities, hospitals, nursing homes, auditoriums, arenas, malls, meeting rooms, bars, taverns, hotels, motels, grocery stores, convenience stores, gas stations, department stores and office buildings.~~

~~Cigarette, Tobacco products, or nicotine product means: any substance containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, smokeless tobacco, dipping tobacco.~~

(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.

(3) 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.

Vending machine means any mechanical, electrical or electronic self-service device which, upon insertion of money, tokens or any other form of payment, dispense products.

Sec. 8-308. Sale of cigarettes, tobacco products, or nicotine products.

(a) No person shall sell, offer for sale, distribute, dispense or give away cigarettes, tobacco products, or nicotine products in a public place by or from a vending machine.

(b) No person shall permit a vending machine that dispenses cigarettes, tobacco products, or nicotine products to be located, installed, kept or maintained in any public place owned or leased by such person.

~~(c) Notwithstanding the provisions of subsections (a) and (b) of this section, cigarettes, tobacco products, and nicotine products may be sold through a vending machine located in a public place where access by minors is prohibited.~~

(c) A retailer shall not permit a person under eighteen years of age to sell or participate in the sale of cigarettes, tobacco products, or nicotine products.

(d) Every person in charge or control of a retail business of any kind shall stock and display all cigarettes, tobacco products, or nicotine products in such business in a manner so as to make all such cigarettes, tobacco products, or nicotine products reasonably inaccessible to customers, thereby requiring a direct, face-to-face exchange of the cigarettes, tobacco products, or nicotine products from

an employee of the business to the customer. No cigarettes, tobacco products, or nicotine products are to be sold or displayed on countertops within physical reach of customers. ~~The provisions of this subsection shall not apply to vending machines and to self-service displays of tobacco products that are located in a public place where access by minors is prohibited.~~

Sec. 8-309. Penalties.

(a) Each day that a person violates any part of this chapter 9 shall be considered as a separate and distinct violation.

(b) Any violation of this chapter 9 is ~~punishable~~ a misdemeanor offense and shall be punishable pursuant to chapter 9 of title 1 of this Code. Any violation shall carry a minimum fine of \$250.00.

Section 2. Section 14-334 contained in Chapter 10, Offenses by or Against Minors, of Title 14, Criminal Conduct and Offenses, of the Greeley Municipal Code, shall be amended to read as follows:

Sec. 14-334. ~~Tobacco product sales to minors.~~ Furnishing cigarettes, tobacco products, or nicotine products to persons under 21 years of age.

(a) ~~Any person who knowingly furnishes to any person who is under 18 years of age, by gift, sale or any other means, tobacco products, as defined in subsection (c) of this section, violates this section. A person shall not give, sell, distribute, dispense, or offer for sale a cigarette, tobacco product, or nicotine product to any person who is under 21 of age.~~

(1) Before giving, selling, distributing, dispensing, or offering to sell to an individual any cigarette, tobacco product, or nicotine product, a person shall request from the individual and examine a government-issued photographic identification that establishes that the individual is 21 years of age or older.

(2) It is an affirmative defense to a prosecution under subsection (a) of this section that the person furnishing the cigarette, tobacco product, or nicotine product was presented with and reasonably relied upon a government-issued photographic identification that identified the individual receiving the cigarette, tobacco product, or nicotine product as being 21 years of age or older.

(b) Any person who is under ~~18~~ 21 years of age and who purchases any cigarettes or tobacco products or nicotine products, as defined in subsection (c) of this section, violates this section.

(c) As used in this section, the term "~~tobacco products~~" means ~~cigarettes, cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, Cavendish, plug and twist tobacco, fine cut and other chewing tobaccos, 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 pipe or otherwise, or both for chewing and smoking.~~ (d) ~~A violation of this section is a misdemeanor infraction and shall be punishable under chapter 9 of title 1 of this Code.~~ 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.

(3) Except, 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.

(d) A violation of this section is a misdemeanor infraction and shall be punishable under chapter 9 of title 1 of this Code.