



ORDINANCE NO. 2017 - 02

AN ORDINANCE AMENDING CHAPTER 11 PUBLIC PROPERTY WITH THE ADDITION OF ARTICLE 11-4-100 TO ESTABLISH TOBACCO AND VAPE FREE PARKS

WHEREAS, the Town of Silverton, located in the County of San Juan and the State of Colorado (the “Town”), is a statutory authority duly existing under the Constitution and laws of the State of Colorado and its Municipal Code; and

WHEREAS, the members of the Town Board of Trustees (the “Board”) have been duly elected and qualified; and

WHEREAS, pursuant to Colorado Revised Statute Sections 31-15-401 and 31-23-301, the Town has broad authority to exercise its police power to promote and protect the health, safety, and welfare of the community and its citizens; and

WHEREAS, pursuant to Colorado Revised Statute Section 31-25-301, the Town has authority to acquire, establish and maintain public parks; and

WHEREAS, the Board hereby finds that smoking of tobacco products is a form of air pollution that threatens the health, safety and welfare of the public; and

WHEREAS, the Board hereby finds that secondhand smoke is a cause of disease including lung cancer, heart disease, respiratory infection and as such, there is no safe level of exposure to secondhand smoke; and

WHEREAS, according to the Centers for Disease Control and Prevention, the use of electronic delivery devices is on the rise; and

WHEREAS, electronic delivery devices have been found to contain known carcinogens and toxic chemicals; and

WHEREAS, the negative health effects of repeated exposure to electronic delivery device aerosol, particles and vapors upon those in close proximity to electronic delivery device users are unknown; and

WHEREAS, the Town Board desires to protect the health, welfare and safety of its citizens by limiting its citizens exposure to secondhand smoke and vapors from electronic smoking devices.

NOW, THEREFORE, BE IT ORDAINED, BY THE BOARD OF TRUSTEES OF THE TOWN OF SILVERTON, COLORADO that it is necessary to prohibit smoking of tobacco products and use of electronic delivery devices in parks in the Town.

Section 1. Findings and Intent. The foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Board.

Section 2. Definitions.

“Electronic smoking device” means an electronic device that, when activated, emits a vapor or aerosol that may be inhaled or absorbed by the user, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen & e-hookah. Electronic delivery device includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substances, with or without nicotine, intended to be aerosolized or vaporized, during the use of the device.

“Park” means a park, reservation, playground, recreation center, Kendall Mountain Ski Area, or any other area in the Town, either new or existing, or which may be subsequently acquired, owned or used by the Town, devoted to active or passive recreation.

“Smoke” or *“Smoking”* means the possession of a lighted cigarette, cigar, or pipe containing tobacco or other matter or substance, regardless of its composition, or the lighting of such cigarette, cigar, or pipe; or the possession of an electronic smoking device which is emitting a vapor, or which is otherwise active, burning, lit or operating.

Section 3. No Smoking in Park. Smoking shall not be permitted in any Park. Memorial Park horse shoe pits shall be a designated smoking area.

Section 4. Police Power Finding. The Board 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 and the inhabitants thereof.

Section 5. Authority. The Board hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to: Colorado Revised Statutes § 31-5-401 (concerning municipal police powers); Colorado Revised Statutes § 31-25-301 (concerning town power to acquire, establish and maintain public parks); and the powers contained in the Town of Silverton Municipal Code.

Section 6. Effective Date. This Ordinance shall be effective March 13, 2017.

Section 7. Signage. Signage requirement and placement determined by the Town Administrator.

Section 8. Enforcement and Penalties.

a. Enforcement of this Ordinance shall be implemented by the San Juan County Sheriff's Department.

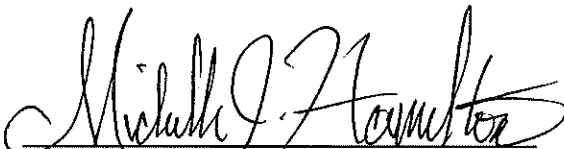
b. Any person who desires to register a complaint under this Ordinance may initiate a complaint with the San Juan County Sheriff's Office.

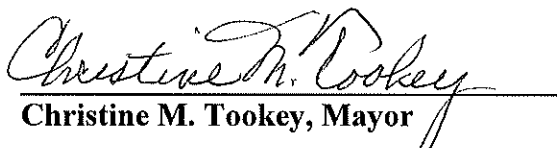
c. A person who violates any provision of this Article is guilty of an offense and, upon conviction thereof, shall be punished by a fine not to exceed twenty five dollars (\$25) for a first violation within a calendar year, a fine not to exceed fifty dollars (\$50) for each additional violation within a calendar year. Each day of a continuing violation shall be deemed a separate violation.

Section 9. Severance Clause. If any part, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such determination shall not affect the validity of the remaining portions of this Ordinance. The Town Board hereby declares it would have passed this Ordinance, and each part, section, subsection, sentence, clause or phrase thereof, regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

INTRODUCED, ADOPTED AND ORDERED PUBLISHED ONCE IN FULL on this 13th day of February, 2017.

TOWN OF SILVERTON, COLORADO


Michelle J. Hamilton, Town Clerk


Christine M. Tookey, Mayor