

**TOWN OF BUENA VISTA, COLORADO  
ORDINANCE NO. 5  
(SERIES OF 2020)**

**AN ORDINANCE OF THE TOWN OF BUENA VISTA, COLORADO  
REPEALING AND REENACTING SECTION 10-257 OF THE BUENA  
VISTA MUNICIPAL CODE CONCERNING TOBACCO REGULATIONS**

WHEREAS, the Board of Trustees wishes to increase the minimum legal age to buy tobacco products to twenty-one (21) years of age or older; and

WHEREAS, the Board of Trustees wishes to include vaping devices and products in the definition of tobacco products and to prohibit the sale of tobacco products via vending or coin-operated machines.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF  
THE TOWN OF BUENA VISTA, COLORADO:**

**Section 1.** Section 10-257 of the Buena Vista Municipal Code is hereby repealed and reenacted as follows:

**Sec. 10-257. – Sales and Distribution of Tobacco and Electronic Smoking  
Devices to Persons under Twenty-One (21) Years of Age.**

(a) Definitions. As used in this Section:

(1) *Minor* means a person under twenty-one (21) years of age.

(2) *Tobacco Product* means: (i) any product which contains, is made or derived from tobacco or used to deliver nicotine, synthetic nicotine, or other substances intended for human consumption, whether heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, bidis, snus, nicotine product, mints, hand gel; or (ii) any electronic smoking device. "Tobacco product" includes any component, part, accessory, or associated tobacco paraphernalia of a tobacco product whether or not sold separately. The term does not include any product that contains marijuana or any product made from or derived from tobacco and approved by the Food and Drug Administration ("FDA") for use in connection with cessation of smoking.

(3) *Electronic Smoking Device* means any product containing or delivering nicotine intended for human consumption that can be used by an individual to simulate smoking in the delivery of nicotine or any other substance, even if marketed as nicotine-free, through inhalation from the product. "Electronic smoking device" includes any refill, cartridge, or component part of a product, whether or not marketed or sold separately. "Electronic smoking device" does not include any product that has been approved or certified by the FDA for sale as a tobacco cessation product or for other medically approved or certified purposes.

- (b) It is unlawful for a person to knowingly furnish, by gift, sale, or any other means, a tobacco product to a minor.
- (c) It is unlawful for a person to sell or offer a tobacco product by use of a vending machine or coin-operated machine.
- (d) It is a rebuttable presumption that the substance within a package or container is a tobacco product if the package or container has affixed to it a label which identifies the package or container as containing a tobacco or nicotine product.
- (e) It is an affirmative defense to a prosecution under this Section that the person furnishing the tobacco product was presented with and reasonably relied upon a government issued document which identified the minor receiving the tobacco product as being twenty-one (21) years of age or older.
- (f) Any person convicted of, or pleading guilty or nolo contendere to, a violation of this Section shall be punished by payment of a fine of not more than two thousand six hundred fifty dollars (\$2,650.00), or by imprisonment not to exceed three hundred sixty-four (364) days, or by both such fine and imprisonment.

**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 part or parts be declared unconstitutional or invalid.

**Section 3. Safety.** This Ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

**INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED** this 28<sup>th</sup> day of April, 2020.


**THIS ORDINANCE SHALL BECOME EFFECTIVE THIRTY (30) DAYS FROM PUBLICATION.**

TOWN OF BUENA VISTA, COLORADO

By: \_\_\_\_\_

Duff Lacy, Mayor

ATTEST:

  
 Paula Barnett, Town Clerk

