

# Indoor Smoking Provisions

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**City Council – October 6, 2020**

City Staff Representative: Sean Pesek, *Assistant City Planner*

## Purpose

- To amend certain sections of Article 8-44 of the *Brighton Municipal Code* (BMC) to permit smoking within all tobacco retail stores, provided it is done so in a way that is compliant with Colorado law and to reflect changes to the Colorado Clean Indoor Air Act with the passage of House Bills 19-1076 and 20-1001.

# Strategic Plan Focus Area

- Safe, Active, and Engaged Community



## Background

- Colorado Clean Indoor Air Act (House Bill 06-1175):
  - Protects non-smokers from involuntary exposure to tobacco smoke
  - Prohibiting smoking in most indoor areas with exceptions
    - Any tobacco business
  - Authorizes a Municipal Home Charter to enact its own regulations
- Brighton City Ordinance 1886:
  - House Bill 06-1175 gives local jurisdictions discretion to regulate more stringently
  - The purpose of Ordinance 1886 was to implement State Law but include other provisions that were specific to Brighton

# Background

- Brighton City Ordinance 2073:
  - Brighton's Councilmembers took notice of the necessity and justification to enact laws and create healthy environments, recognizing the statistics indicating the vulnerability of youth to the hazards of smoking.
  - Smoking prohibitions were extended to newly operating tobacco retail stores.
    - Pursuant to Section 8-44-30(6) of the Brighton Municipal Code, a tobacco retail store authorized, open and operating with a City business license on August 1, 2010, and was, at that time, exempt from the smoking ban of Article 8-44, can continue to operate with that exception.
    - Tobacco retail stores operating with a City business license after August 1, 2010 are not exempt from the smoking restrictions set forth in Article 8-44.

# Background

- Brighton City Ordinance 2073:
  - This provision does not allow new tobacco retail stores (many of which have designated indoor smoking areas for customers) to function at their full capacity.
  - City staff has proposed an amendment to Section 8-33-30 of the BMC to exempt all tobacco retail stores from indoor smoking restrictions regardless of operation date.
    - Complies with State law

## Background

- House Bill 19-1076:
  - Enacted October 1, 2019, HB 19-1076 made several amendments to the Colorado Clean Indoor Air Act, including but not limited to:
    - Increasing the radius of an “entryway” from a minimum of 15 feet to a minimum of 25 feet
  - To comply with Colorado Law, City staff has proposed an amendment to Section 8-44-80 of the BMC to increase the smoke-free radius around entryways from 15 feet to 25 feet.

## Background

- House Bill 20-1001:
  - Signed by Governor Jared Polis on July 14, 2020, HB 20-1001 raises the minimum age of a person to whom cigarettes, tobacco products, and nicotine products may be sold from 18 years of age to 21 years of age.
  - City staff has proposed an amendment to Section 8-44-90 of the BMC to require tobacco retail stores to display signage stating that persons under the age of 21 may not enter.



## Background

- Public Outdoor Places (Section 8-44-20 of the BMC):
  - As defined in Section 8-44-20 of the BMC, “public outdoor places” means any outdoor facility or area that is open to members of the public who enter such area or place, including but not limited to sports fields, sports venues, restrooms, outdoor seating areas for participants and/or observers, recreational facilities and the designated area surrounding such places and areas.
  - City staff has proposed an amendment to Section 8-44-20 of the BMC to include **all parks and playgrounds and similar places where families and children congregate for recreation** in the definition of “public outdoor places”.

## Staff Recommendation

- Staff recommends approval of the proposed BMC amendments set forth in the draft Ordinance with input/revisions from City Council.

# Options for Council Consideration

## City Council may:

1. Approve the Ordinance as drafted at first reading;
2. Approve the Ordinance with specific changes at first reading;
3. Deny the Ordinance as drafted; or
4. Continue the item to be heard at a later, specified date

## Appendix

- House Bill 06-1175
  - [https://www.colorado.gov/pacific/sites/default/files/Clean%20Indoor%20Air%20Act\\_0.pdf](https://www.colorado.gov/pacific/sites/default/files/Clean%20Indoor%20Air%20Act_0.pdf)
- House Bill 19-1076
  - [https://leg.colorado.gov/sites/default/files/documents/2019A/bills/2019a\\_1076\\_01.pdf](https://leg.colorado.gov/sites/default/files/documents/2019A/bills/2019a_1076_01.pdf)
- House Bill 20-1001
  - [https://leg.colorado.gov/sites/default/files/2020a\\_1001\\_signed.pdf](https://leg.colorado.gov/sites/default/files/2020a_1001_signed.pdf)