

TOWN OF PINETOP-LAKESIDE

ORDINANCE NO. 17-403

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PINETOP-LAKESIDE, ARIZONA, AMENDING "TOWN CODE CHAPTER 9.08 SMOKING PROHIBITED IN TOWN-OWNED BUILDINGS AND VEHICLES" BY AMENDING SECTION 9.08.020 – DEFINITIONS AND SECTION 9.08.030 – SMOKING PROHIBITED.

Section 1. **Adoption.** The Town hereby adopts a text amendment to the Town Code, amending the former "Town Code Chapter 9.08 - Smoking Prohibited in Town-Owned Buildings and Vehicles" by amending Section 9.08.020 – Definition and Section 9.08.030 – Smoking Prohibited.

Section 2. **Effective Date.** This Ordinance is to be effective when publication and posting pursuant to A.R.S. §9-812 is accomplished.

Section 3. **Section 9.08.020 - Definition** is hereby amended to reflect as follows:

1. "Smoke" or Smoking" means to inhale, exhale, burn, carry or possess any lighted tobacco or smoke tobacco type products including cigarettes, medicinal or recreational marijuana, cigars, pipes, e-cigarettes, vapor and other synthetic type products or smokeless types of devices, water pipes, hookah, shisha, chewing tobacco, snuff and other products containing tobacco."

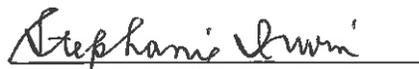
Section 4. **Section 9.08.030 – Smoking Prohibited** is hereby amended to add the following:

(B) No person shall smoke in any Town-owned Parks or Town-leased Parks.

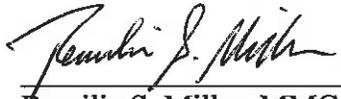
Section 5. **Severability.** All ordinances, or parts of ordinances, adopted by the Town of Pinetop-Lakeside in conflict with the provisions of this ordinance or any part of the Town Code adopted herein by reference, are hereby repealed, effective as of the day this ordinance is effective.

PASSED AND ADOPTED by a majority vote of the Town Council in an open meeting by the Town Council, Town of Pinetop-Lakeside, Arizona, on the 2nd day of March, 2017, to be effective upon the expiration of a thirty (30) day period following adoption and publication pursuant to A.R.S. §9-812 is completed.

TOWN OF PINETOP-LAKESIDE


Stephanie Irwin
Mayor

ATTEST:


Remilie S. Miller, MMC
Town Clerk



APPROVED AS TO FORM:


William J. Sims, III
Town Attorney

Chapter 9.08
SMOKING PROHIBITED IN TOWN-OWNED BUILDINGS AND VEHICLES

Sections:

- 9.08.010 Purpose.
- 9.08.020 Definitions.
- 9.08.030 Smoking prohibited.
- 9.08.040 Enforcement and penalty.
- 9.08.050 No private cause of action.

9.08.010 Purpose.

In order to help protect the public health, safety and welfare, the declared purpose of this chapter is to prohibit smoke and smoking within Town-owned buildings and Town-owned vehicles within the Town of Pinetop-Lakeside. (Ord. 98-150 § 1)

9.08.020 Definitions.

1. "Smoke" or Smoking" means to inhale, exhale, burn, carry or possess any lighted tobacco or smoke tobacco type products including cigarettes, medicinal or recreational marijuana, cigars, pipes, e-cigarettes, vapor and other synthetic type products or smokeless types of devices, water pipes, hookah, shisha, chewing tobacco, snuff and other products containing tobacco."

2. "Town-owned building or vehicle" means any building or vehicle in which the Town of Pinetop-Lakeside has an interest as an owner, tenant, lessor, lessee or any other possessory interest. (Ord. 98-150 § 2)

9.08.030 Smoking prohibited.

A. No person shall smoke in any Town-owned building or Town-owned vehicle at any time. Smoking is prohibited in Town-owned buildings and Town-owned vehicles from and after the effective date of the ordinance codified in this chapter. (Ord. 98-150 § 3)

B. No person shall smoke in any Town-owned Parks or Town-leased Parks.

9.08.040 Enforcement and penalty.

A. Violation of this chapter shall be treated as a civil matter. A civil violation case is commenced by issuance of a civil notice or complaint in a form authorized by the Town Police Department, or, in the alternative, a civil violation may be commenced by the issuance of a civil summons and complaint. All such civil violations shall be referred to the Municipal Court for adjudication.

B. A person found to have violated this chapter shall be subject to a civil sanction not to exceed fifty dollars (\$50.00) for the first offense and up to one thousand dollars (\$1,000.00) for each subsequent offense within one year. In addition to or in lieu of civil sanctions authorized by this section, the court may order community service as is appropriate in the discretion of the court. (Ord. 98-150 § 4)

9.08.050 No private cause of action.

In enacting and enforcing this chapter, the Town undertakes only to promote the general health, safety and welfare of the public. This chapter shall not create any private cause of action by a member of the public and this chapter shall not create the basis for or create a standard of care for any private cause of action, nor may this chapter be enforced in any manner other than as set forth in Section 9.08.040. This chapter does not assume nor does it impose on Town officers, Council members or employees any obligation for breach of which the Town or any of its officers, Council members and employees would be liable in money damages or otherwise to any other person claiming injury from such breach. (Ord. 98-150 § 5)