

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO. 4321

AN ORDINANCE AMENDING ORDINANCE 3852, WHICH ESTABLISHES SECTION 24-22 OF THE CODE OF ORDINANCES AND PROHIBITS THE PURCHASE, POSSESSION OR CONSUMPTION OF ALCOHOL BY MINORS AND ALSO AMENDING ORDINANCE 3853, WHICH ESTABLISHES SECTION 24-23 OF THE CODE OF ORDINANCES AND PROHIBITS THE PURCHASE, POSSESSION OR CONSUMPTION OF MARIJUANA BY MINORS

RECITALS:

Ordinance 3852 of the City Code of Ordinances was adopted by the City Council in December 2005, to prohibit the possession, purchase and consumption of alcohol by minors and prohibit the provision of alcohol to minors. The passage of this Ordinance gave the Municipal Court power to enforce and punish underage drinking violations.

Ordinance 3853 of the City Code of Ordinances was adopted by the City Council in December 2005, to prohibit the possession, purchase and consumption of marijuana by minors and prohibit the possession of drug paraphernalia. The passage of this Ordinance gave the Municipal Court power to enforce and punish underage marijuana possession/consumption.

Since the passage of Ordinances 3852 and 3853, the Municipal Court has successfully prosecuted many violations. In the course of prosecuting those cases, it has become necessary to further define and identify how prior offenses relate to new violations by prior offenders.

To provide clarity and further guidance to the Municipal Court, City staff proposes the following changes to Chapter 24, Sections 22 and 23 and requests that the City Council approve the recommended changes to the Code of Ordinances.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:

1. Chapter 24, Section 22 of the Code of Ordinances, as adopted by this Ordinance No. 4321 is hereby amended to read as follows.

Sec. 24-22. Purchase, possession, consumption or sale of alcohol by or to persons under the age of 21.

Definitions

Alcoholic beverage, as used in this section, shall mean any vinous, spirituous or malt liquor and/or any fermented malt beverage, including 3.2 percent beer, of any kind and in any quantity.

Providing alcohol to minor

(1) It shall be unlawful for any person to knowingly sell, serve, give away, dispose of, exchange or deliver, or to permit the sale, serving, giving or procuring of any alcoholic beverage to or for anyone under the age of 21 years.

(2) It shall be unlawful for any person to knowingly permit any person under the age of 21 years to violate subsections (3), (4) or (5) of this section.

Purchase of alcohol by minor

(3) It shall be unlawful for any person under the age of 21 years to obtain or attempt to obtain any alcoholic beverage by misrepresentation of age or any other method in any place selling or providing alcoholic beverages.

(4) It shall be unlawful for any person under the age of 21 years to purchase any alcoholic beverage.

Possession or consumption of alcohol by minor

(5) It shall be unlawful for a person under the age of 21 years to possess or consume any alcoholic beverage.

Defenses, exceptions

(6) It shall be an affirmative defense to any violation of this section 24-22 that the person under the age of 21 years was participating in a religious ceremony or practice, or was participating in a supervised and bona fide investigation conducted by a law enforcement agency, or that the conduct was permitted by Articles 46 and/or 47 of Title 12, Colorado Revised Statutes.

(7) Nothing in this section 24-22 shall prohibit any person under the age of 21 from possessing or consuming any alcoholic beverage in their own home with the knowledge and permission of, and in the presence and under the supervision of, their natural parent(s) or legal guardian, nor to prohibit any natural parent or legal guardian from providing any alcoholic beverage to their child(ren) in their own home.

Penalties

(8) Each violation of subsections (1) or (2) (providing alcohol to a minor) of this ordinance, Section 24-22, may be punishable by a fine of up to \$1,000, useful public service, up to 30 days in jail, or any combination thereof, in the discretion of the Court.

(9) Each violation of subsections (3), (4) or (5) (purchase, possession or consumption of alcohol by a minor) of this ordinance, Section 24-22, may be punishable by useful public service, suspension of drivers' license, alcohol education classes, alcohol evaluation and treatment, fines, or any combination of these in the discretion of the court, subject to the following:

- (a) Useful public service of no less than 24 hours for any single offense shall be imposed.
- (b) Drivers license shall be suspended for a period of three (3) months for a first offense and up to one (1) year for subsequent offenses.
- (c) Fines of up to \$250 for a first offense, up to \$500 for a second offense and up to \$1000 for a third offense, may be imposed. Fines may be suspended on the condition of timely completion of useful public service and alcohol classes or treatment. This subsection (9)(c) shall not limit the discretion of the court to suspend fines for other reasons it deems appropriate. It is the intention of the City Council in adopting this subsection (9)(c) to establish a preference for useful public service, alcohol education and/or treatment over fines.

(10) Each violation of subsections (3), (4) or (5) (purchase, possession or consumption of alcohol by a minor) of this ordinance, Section 24-22, by a person who is 18 years of age or older may be punishable by up to 30 days in jail, in combination with or in lieu of any penalties set forth in subsection (9) of this ordinance, Section 24-22, in the discretion of the Court.

(11) "First offense", "second offense", "third offense" and further offenses shall be defined as including any prior municipal alcohol or drug related possession or consumption offense(s).

(12) Aggravating factors for sentence enhancement include but shall not be limited to the following factor(s):

- (a) prior conviction(s) for minor in possession or consumption of alcohol or marijuana;
- (b) prior conviction(s) for possession, consumption, or distribution of alcohol or other unlawful drugs (including prescription drugs);

- (c) prior conviction(s) for driving under the influence of alcohol, driving while impaired by alcohol and other motor vehicle offense(s) involving the use of alcohol and drugs; and
- (d) lack of cooperation by the defendant, including poor attitude and/or aggressive or hostile demeanor.

2. Chapter 24, Section 23 of the Code of Ordinances, as adopted by this Ordinance No. 4321 is hereby amended to read as follows.

Sec. 24-23. Purchase, possession, consumption of marijuana by persons under the age of 21.

(1) It shall be unlawful for any person under the age of 21 years to purchase or possess one ounce or less of marijuana, and/or to consume any quantity of marijuana, except as allowed for medicinal purposes.

Penalties

(2) Each violation of this section 24-23, shall be punishable by useful public service, suspension of drivers' license, drug education classes, drug evaluation and treatment, fines, or any combination of these in the discretion of the court, subject to the following:

- (a) Useful public service of no less than 24 hours for any single offense shall be imposed.
- (b) Drivers license shall be suspended for a period of three (3) months for a first offense and up to one (1) year for subsequent offenses.
- (c) Fines of up to \$250 for a first offense, up to \$500 for a second offense and up to \$1000 for a third offense, may be imposed. Fines may be suspended on the condition of timely completion of useful public service and drug classes or treatment. This subsection (2)(c) shall not limit the discretion of the court to suspend fines for other reasons it deems appropriate. It is the intention of the City Council in adopting this subsection (2)(c) to establish a preference for useful public service and drug education and/or treatment over fines.

(3) Each violation of this section 24-23 by a person who is 18 years of age or older may be punishable by up to 30 days in jail, in combination with or in lieu of any penalty provided for in subsection (2) of this ordinance, Section 24-23, in the discretion of the Court.

(4) "First offense", "second offense", "third offense" and further offense(s) shall be defined as including any prior municipal alcohol or drug related possession or consumption offense(s).

(5) Aggravating factors for sentence enhancement include but shall not be limited to the following factor(s):

- (a) prior conviction(s) for minor in possession or consumption of alcohol or marijuana;
- (b) prior conviction(s) for possession, consumption, or distribution of alcohol or other unlawful drugs (including prescription drugs);
- (c) prior conviction(s) for driving under the influence of alcohol, driving while impaired by alcohol and other motor vehicle offense(s) involving the use of alcohol and drugs; and
- (d) lack of cooperation by the defendant, including poor attitude and/or aggressive or hostile demeanor.

PASSED for first reading and ordered published by the City Council of the City of Grand Junction, Colorado this 5th day of January, 2009.

PASSED AND ADOPTED on second reading by the City Council of the City of Grand Junction, Colorado this 21st day of January, 2009.



President of the Council

ATTEST:

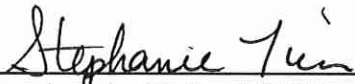


City Clerk

I HEREBY CERTIFY THAT the foregoing Ordinance, being Ordinance No. 4321 was introduced by the City Council of the City of Grand Junction, Colorado at a regular meeting of said body held on the 5th of January, 2009 and that the same was published in The Daily Sentinel, a newspaper published and in general circulation in said City, at least ten days before its final passage.

I FURTHER CERTIFY THAT a Public Hearing was held on the 21st day of January, 2009, at which Ordinance No. 4321 was read, considered, adopted and ordered published in full by the Grand Junction City Council.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 23rd day of January, 2009.



Stephanie Tuin, MMC
City Clerk

Published: January 7, 2009
Published: January 23, 2009
Effective: February 22, 2009