

**CITY OF GRAND JUNCTION, COLORADO**

**ORDINANCE NO. 4637**

**AN ORDINANCE AMENDING SECTIONS 9.04.220, 9.04.230, AND 9.04.240 OF THE GRAND JUNCTION MUNICIPAL CODE REGARDING ALCOHOL, MARIJUANA, DRUG PARAPHERNALIA, AND PERSONS UNDER THE AGE OF 21 YEARS**

**RECITALS:**

The City Council of the City of Grand Junction has reviewed and approved changes to Sections 9.04.220, 9.04.230, and 9.04.240 of the City of Grand Junction's Code of Ordinances relating to possession, consumption, transferring, dispensing and use of alcohol, two ounces or less of marijuana, and/or drug paraphernalia by persons under the age of 21 years within the City. The City Council found the changes as proposed are beneficial to the health, safety, and welfare of the citizens of the community.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION:**

Sections 9.04.220, 9.04.230, and 9.04.240 of the Grand Junction Municipal Code are hereby amended as follows:

**9.04.220 Purchase, possession, consumption or sale of alcohol by or to persons under the age of 21.**

**(a) Definitions.**

- (1) *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.
- (2) *Minor*, as used in this section and sections 9.04.230 and 9.04.240, is a person under the age of 21 years.
- (3) "Conviction of a second offense, third offense or subsequent offense" shall mean a conviction for violating this section, section 9.04.230, section 9.04.240, or any combination of these three sections on more than one occasion, or convictions of any other drug or alcohol violation(s) in this court or any other court.

**(b) 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 (c)(1), (c)(2) or (d) of this section.

**(c) Purchase of Alcohol by Minor.**

(1) 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.

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

**(d) Possession or Consumption of Alcohol by Minor.** It shall be unlawful for a person under the age of 21 years to possess or consume any alcoholic beverage.

**(e) Defenses, Exceptions.**

(1) It shall be an affirmative defense to any violation of this section 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.

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

(3) It shall be an affirmative defense if the minor establishes the following:

(i) The minor called 911 and reported in good faith that another minor person was in need of medical assistance due to alcohol or marijuana consumption;

(ii) The minor provided the minor's name to the 911 operator;

(iii) The minor was the first person to make the 911 report; and

(iv) After making the 911 call, the minor remained on the scene with the other minor person needing medical assistance until the assistance arrived and cooperated with medical assistance or law enforcement personnel on the scene.

**(f) Evidence.**

(1) Prima facie evidence of a violation of this section shall consist of:

(i) Evidence that the person is under 21 years of age and possessed or consumed an alcoholic beverage anywhere in the City; or

(ii) Evidence that the person was under the age of 21 years and manifested any of the characteristics commonly associated with intoxication or impairment from consuming an alcoholic beverage anywhere in the City.

(2) During any trial for a violation of this section, any bottle, can, or any other container with labeling indicating the contents of such bottle, can, or container shall be admissible into evidence, and the information contained on any such label on such bottle, can, or other container shall be admissible into evidence and shall not constitute hearsay. A label which identifies the contents of any bottle, can, or other container as "beer," "ale," "malt beverage," "fermented malt," "malt liquor," "wine," "champagne," "whiskey" or "whisky," "gin," "vodka," "tequila," "schnapps," "brandy," "cognac," "liqueur," "cordial," "rum," "alcohol," or "liquor" shall constitute prima facie evidence that the contents of the bottle, can, or other container was composed in whole or in part of alcohol.

**(g) Penalties.**

(1) Each violation of subsection (b)(1) or (b)(2) of this section (providing alcohol to a minor) shall 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.

(2) Each violation of subsection (c)(1), (c)(2) or (d) of this section (purchase, possession or consumption of alcohol by a minor) shall be punishable as follows:

(i) Upon conviction of a first offense, the court shall sentence the minor to a fine of not more than \$100.00, or the court shall order the minor to complete a substance abuse education program, or both. (ii) Upon conviction of a second offense, the court shall sentence the minor to a fine of not more than \$100.00, and the court shall order the minor to:

- a. Complete a substance abuse education program;
- b. If determined necessary and appropriate, submit to a substance abuse assessment and complete any treatment recommended by the assessment; and
- c. Perform up to 24 hours of useful public service.

(ii) Upon conviction of a third or subsequent offense, the court shall sentence the minor to a fine of up to \$250.00 and the court shall order the minor to:

- a. Submit to a substance abuse assessment and complete any treatment recommended by the assessment;
- b. Perform up to thirty-six hours of useful public service.

**9.04.230 Purchase, possession, consumption of marijuana by persons under the age of 21.**

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

(b) It shall be unlawful for any person under the age of 21 years to openly and publicly display, consume, or use two ounces or less of marijuana.

(c) **Defense, exception.** It shall be an affirmative defense if the minor establishes the following:

(1) The minor called 911 and reported in good faith that another minor person was in need of medical assistance due to alcohol or marijuana consumption;

(2) The minor provided the minor's name to the 911 operator;

(3) The minor was the first person to make the 911 report; and

(4) After making the 911 call, the minor remained on the scene with the other minor person needing medical assistance until the assistance arrived and cooperated with medical assistance or law enforcement personnel on the scene.

(d) **Evidence.**

(1) Prima facie evidence of a violation of this section shall consist of:

(i) Evidence that the person is under 21 years of age and possessed or consumed marijuana anywhere in the City; or

(ii) Evidence that the person was under the age of 21 years and manifested any of the characteristics commonly associated with intoxication or impairment from consuming marijuana anywhere in the City.

(2) During any trial for a violation of this section, any bottle, can, or any other container with labeling indicating the contents of such bottle, can, or container shall be admissible into evidence, and the information contained on any such label on such bottle, can, or other container shall be admissible into evidence and shall not constitute hearsay. A label which identifies the contents of any bottle, can, or other container as "marijuana," "marihuana," "cannabis," "cannabinoid," "tetrahydrocannabinol," or "THC" shall constitute prima facie evidence that the contents of the bottle, can, or other container was composed in whole or in part of marijuana.

(e) **Penalties.** Each violation of subsection (a) or (b) of this section shall be punishable as follows

(1) Upon conviction of a first offense of either subsection, the court shall sentence the minor to a fine of not more than \$100.00, or the court shall order the minor to complete a substance abuse education program, or both.

(2) Upon conviction of a second offense of either subsection, the court shall sentence the minor to a fine of not more than \$100.00, and the court shall order the minor to:

- (i) Complete a substance abuse education program;
- (ii) If determined necessary and appropriate, submit to a substance abuse assessment and complete any treatment recommended by the assessment; and
- (iii) Perform up to 24 hours of useful public service.

(3) Upon conviction of a third or subsequent offense of either subsection, the court shall sentence the minor to a fine of up to \$250.00 and the court shall order the minor to:

- (i) Submit to a substance abuse assessment and complete any treatment recommended by the assessment;
- (ii) Perform up to thirty-six hours of useful public service.

**9.04.240 Possession and purchase of drug paraphernalia by persons under the age of 21 years.**

(a) It shall be unlawful for any person under the age of 21 years to knowingly purchase or possess drug paraphernalia.

(b) *Drug paraphernalia* as used in this section shall mean all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing marijuana into the human body, including but not limited to:

- (1) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of marijuana;
- (2) Scales and balances used, intended for use, or designed for use in weighing or measuring marijuana;
- (3) Separation gins or sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;
- (4) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding marijuana with other substances, including but not limited to foods;
- (5) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of marijuana;

(6) Containers and other objects used, intended for use, or designed for use in storing or concealing marijuana; or

(7) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana into the human body, such as:

(i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(ii) Water pipes;

(iii) Carburetion tubes and devices;

(iv) Smoking and carburetion masks;

(v) Roach clips, meaning objects used to hold a burning marijuana cigarette that has become too small or too short to be held in the hand;

(vi) Chamber pipes;

(vii) Carburetor pipes;

(viii) Electric pipes;

(ix) Air-driven pipes;

(x) Chillums;

(xi) Bongs;

(xii) Ice pipes or chillers.

(c) In determining whether an object is drug paraphernalia, a court, in its discretion, may consider, in addition to all other relevant factors, the following:

(1) Statements by the owner or by anyone in control of the object concerning its use;

(2) The proximity of the object to marijuana;

(3) The existence of any residue of marijuana on the object;

(4) Direct or circumstantial evidence of the knowledge of an owner, or of anyone in control of the object, or evidence that such person unreasonably should know, that it will be delivered to persons who he knows or reasonably should know, could use the object to facilitate a violation of this section;

- (5) Instructions, oral or written, provided with the object concerning its use, which shall be admissible and shall not constitute hearsay;
- (6) Descriptive materials accompanying the object which explain or depict its use, which shall be admissible and shall not constitute hearsay;
- (7) National or local advertising concerning its use, which shall be admissible and shall not constitute hearsay;
- (8) The manner in which the object is displayed;
- (9) Whether the owner, or anyone in control of the object, is a supplier of like or related items to the community for legal purposes, such as an authorized distributor or dealer of tobacco products;
- (10) The existence and scope of legal uses for the object in the community;
- (11) Expert testimony concerning its use.

(d) In the event a case brought pursuant to this section is tried before a jury, the Court shall hold an evidentiary hearing on issues raised pursuant to this section. Such hearing shall be conducted in camera.

(e) **Defense, exception.** It shall be an affirmative defense if the minor establishes the following:

- (1) The minor called 911 and reported in good faith that another minor person was in need of medical assistance due to alcohol or marijuana consumption;
- (2) The minor provided the minor's name to the 911 operator;
- (3) The minor was the first person to make the 911 report; and
- (4) After making the 911 call, the minor remained on the scene with the other minor person needing medical assistance until the assistance arrived and cooperated with medical assistance or law enforcement personnel on the scene.

(f) **Penalties.** Each violation of this section shall be punishable as follows

- (1) Upon conviction of a first offense of either subsection, the court shall sentence the minor to a fine of not more than \$100.00, or the court shall order the minor to complete a substance abuse education program, or both.
- (2) Upon conviction of a second offense of either subsection, the court shall sentence the minor to a fine of not more than \$100.00, and the court shall order the minor to:
  - (i) Complete a substance abuse education program;

(ii) If determined necessary and appropriate, submit to a substance abuse assessment and complete any treatment recommended by the assessment; and

(iii) Perform up to 24 hours of useful public service.

(3) Upon conviction of a third or subsequent offense of either subsection, the court shall sentence the minor to a fine of up to \$250.00 and the court shall order the minor to:

(i) Submit to a substance abuse assessment and complete any treatment recommended by the assessment;

(ii) Perform up to thirty-six hours of useful public service.

**INTRODUCED** on first reading the 20<sup>th</sup> day of August, 2014 and ordered published in pamphlet form.

**PASSED** and **ADOPTED** on second reading the 3<sup>rd</sup> day of September, 2014 and ordered published in pamphlet form.




*Barbara Forrie*  
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President of City Council



I HEREBY CERTIFY THAT the foregoing Ordinance, being Ordinance No. 4637 was introduced by the City Council of the City of Grand Junction, Colorado at a regular meeting of said body held on the 20<sup>th</sup> day of August, 2014 and that the same was published in The Daily Sentinel, a newspaper published and in general circulation in said City, in pamphlet form, at least ten days before its final passage.

I FURTHER CERTIFY THAT a Public Hearing was held on the 3<sup>rd</sup> day of September, 2014, at which Ordinance No. 4637 was read, considered, adopted and ordered published in pamphlet form by the Grand Junction City Council.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 5<sup>th</sup> day of September, 2014.

  
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Stephanie Tuin, MMC  
City Clerk

Published: August 20, 2014  
Published: September 5, 2014  
Effective: October 5, 2014

