

ORDINANCE NO. 2252

AN ORDINANCE REPEALING AND REENACTING SECTION 19-77 OF CHAPTER 19 OF THE CODE OF ORDINANCES OF THE CITY OF GRAND JUNCTION TO PROHIBIT SMOKING IN CERTAIN PLACES WITHIN THE CITY.

WHEREAS, both the Environmental Protection Agency and the Surgeon General have stated that there is substantial scientific evidence which links the adverse effects of passive smoking (i.e., subjection of a person to smoke caused by another person's smoking) to the non-smoker; and

WHEREAS, it is in the interest of the public health, safety and welfare that indoor smoking be limited in the City of Grand Junction to areas where smoking is permitted pursuant to this chapter;

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

That the Code of Ordinances of the City of Grand Junction is amended by repealing and reenacting Section 19-77 of Chapter 19 to read as follows:

SECTION 19-77. NO SMOKING IN PUBLIC PLACES EXCEPT IN THOSE AREAS DESIGNATED FOR SMOKING.

(1) Legislative Intent: Because the smoking of tobacco or any other plant, whether such smoking is active or passive, is a danger to health and is a cause of material annoyance and discomfort to those who are present in confined areas, City Council hereby finds, determines and declares it is necessary and conducive to the protection of the public health, safety, welfare and economic well-being to provide for the maintenance of smoke free areas of reasonable sizes, and locations within public places in order to prevent persons from being subjected, against their wills or desires, to the discomforts and hazards associated with smoking.

(2) Definitions:

Public Place: A "Public Place" shall mean any enclosed, indoor area used by the general public, including, but not limited to, restaurants, retail stores, other commercial establishments, governmental offices, waiting rooms, public conveyances, elevators, airports, bus stations, train stations, educational facilities, hospitals, nursing homes, child care centers, auditoriums, theaters, arenas, assembly and meeting rooms and restrooms, but the term does not include enclosed offices occupied exclusively by smokers, even though such offices may be visited by non-smokers. Bleachers, stands or other seating facilities for spectators in stadiums or other sports arenas, whether or not indoors, shall be deemed to be Public Places.

Work Place: A "Work Place" shall mean an enclosed area in which three or more persons work at gainful employment.

Smoke or Smoking: "Smoke" and "Smoking" shall mean the smoking or carrying of a lighted pipe, lighted cigar, or lighted cigarette of any kind and includes the lighting of a pipe, cigar or cigarette of any kind.

Smoking Prohibited: "Smoking Prohibited" shall mean no smoking shall be allowed in a Public Place except in a Designated Smoking Area, or as otherwise provided by this Article.

Designated Smoking Area: A "Designated Smoking Area" shall mean an area or areas within a Public Place which a proprietor, owner or person in charge of the Public Place is permitted under this Article to designate, and has designated therein an area as a Smoking area; in a Designated Smoking Area in a restaurant, only cigarette, and not pipe and cigar, Smoking shall be permitted.

(3) Smoking Prohibited In Public Places: Except in Designated Smoking Areas permitted by this Article, there shall be no Smoking permitted in Public Places.

A Designated Smoking Areas: The owner, proprietor, or person in charge of a Public Place may designate a portion thereof or a Designated Smoking Area, provided that such designation shall be in accordance with all of the terms and provisions of this chapter; inclusive of, but not limited to, the following:

(1.) In restaurants with a seating capacity for over thirty (30) persons, the owner, proprietor, or person in charge may provide a Designated Smoking Area of sufficient size to accommodate without unreasonable delay patrons who request to be seated in such an area. The delay shall be deemed reasonable if it is equal for smokers and non-smokers. If a waiting area is provided such area may not be a Designated Smoking Area. Patrons shall be advised orally or by signs that non-smoking areas are available. Restaurants having a seating capacity for thirty (30) or fewer persons shall be exempt from the restrictions imposed by this Chapter, provided, that the owner, proprietor, or person in charge may, if so desired, provide smoking and non smoking areas.

(2.) In retail stores primarily engaged in the sale of tobacco, tobacco products and smoking implements and in establishments in which malt, vinous and/or spirituous liquors are sold for consumption on the premises, pursuant to a license other than an arts license, and except for those areas within such establishments which are utilized primarily for restaurant purposes, the owner, proprietor or person in charge may designate the entire facility or portions thereof as a Designated Smoking Area.

(3.) Except as permitted by paragraph (2) above, areas of stores or shops in which merchandise is displayed for sale, corridors

utilized for access to such displays and checkout areas in such stores shall not be designated as Smoking Areas.

(4.) In all Public Places the owner, proprietor or person in charge who is permitted to designate a Smoking Area under this Article shall designate such an area so that it is not necessary for non-smokers to pass through such area to reach other non-smoking areas.

(5.) Elevators, public restrooms, and except as provided in this section (5) below, waiting rooms and hallways shall in no event be Designated Smoking Areas. In respect to Public Places having unpartitioned spaces of more than five thousand (5,000) square feet, no more than twenty-five percent (25%) of such space may be a Designated Smoking Area. In a Work Place in which smokers and non-smokers work in the same office or room, it shall be the responsibility of employers to provide smoke-free work areas to accommodate employees who request the same.

(6.) The proprietor or person in charge of any nursing home, hospital or health care facility shall provide smoke free rooms for non-smokers, and shall not require a non-smoker to share a room or other facility with a person who smokes, except with the express consent of the non-smoker.

B. Signs: To advise persons of the prohibition against smoking in Public Places and the availability of Designated Smoking Areas, if any, signs shall be posted as follows:

(1) In Public Places where the owner, proprietor or person in charge prohibits Smoking in the entire Public Place, a sign using the words "no smoking" or the international no smoking symbol, or both, shall be conspicuously posted either on all public entrances or in a position clearly visible on entry into the Public Place.

(2.) In Public Places where there are Designated Smoking Areas pursuant to this Section, the statement "no smoking except in designated areas", shall be conspicuously posted either on all public entrances or in a position clearly visible on entering into the Public Place.

(3.) In Public Places where smoking is permitted in the entire building or area a sign using the words "this area is a smoking area in its entirety" shall be conspicuously posted either on all public entrances or in a position clearly visible on entry into the area or building.

C. Prohibited Smoking Area: Smoking shall not be permitted and Smoking areas shall not be designated in those areas where Smoking is prohibited by the Fire Chief, State Statute, ordinances, Fire Code Regulations, or other regulations of the City of Grand Junction.

D. Responsibilities Of Proprietors: Any Designated Smoking Areas

permitted to be made under this chapter shall be made by the proprietor or person in charge of a Public Place in such a manner as may reasonably carry out the intents and purposes of this chapter. Such proprietor or person* shall make reasonable efforts to obtain compliance with this chapter in such places by.

(i) Posting and maintaining posted appropriate signs, as required by this chapter;

(ii) Arranging work areas to provide a smoke-free area, as required by this chapter;

(iii) Asking smokers to refrain from smoking upon request of a client or an employee suffering discomfort from the smoke;

(iv) Affirmatively directing smokers to Designated Smoking Areas;

E. Penalties: It is lawful for any person to violate any of the provisions of this Article. The penalty for violation of any provision of this Article is a fine not exceeding three hundred dollars or imprisonment for a term not exceeding ninety days or by both such fine and imprisonment in the discretion of the court. In determining the sentence to be imposed, the court shall consider the frequency and duration of the violation, the size of the establishment, whether it was knowing or not, and other relevant factors. Each day of a continuing violation shall be deemed to be a separate violation.

PASSED and ADOPTED this 4th day of December, 1985.

Raymond G. Phipps

President of the Council

Attest:

Neva B. Lockhart, CMC

City Clerk

I HEREBY CERTIFY that the foregoing ordinance, being Ordinance No. 2252, was introduced, read, and ordered published by the City Council of the City of Grand Junction, Colorado, at a regular meeting of said body held on the 20th day of November, 1985, 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.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 5th day of December, 1985.

Neva B. Lockhart

Neva B. Lockhart, CMC

City Clerk

Published: November 22, 1985

Final Publication: December 6, 1985

Effective: January 5, 1986