

**City of Grand Junction, Colorado**

**Ordinance No. 3095**

**AN ORDINANCE REGULATING  
TOBACCO PRODUCTS.**

The City Council of Grand Junction makes the following findings:

- a. Cigarette smoking is dangerous to human health;
- b. There exists substantial scientific evidence that the use of tobacco products causes cancer, chronic pulmonary disease, heart disease, and various other medical disorders;
- c. The Surgeon General of the United States has declared that nicotine addiction from tobacco is the most widespread example of drug dependence in the United States;
- d. The Director of the National Institute on Drug Abuse concluded that the majority of the 320,000 Americans who die each year from cigarette smoking became addicted to nicotine as adolescents before the legal age of consent;
- e. Colorado law currently prohibits adults from providing tobacco products to minors;
- f. §25-14-205, C.R.S., specifically authorizes local regulation of smoking and authorizes local entities to adopt ordinances regarding smoking;
- g. §18-13-121 (3), C.R.S., authorizes local authorities to impose requirements regarding the purchase of tobacco products by minors which are more stringent than those provided by state law;
- h. We determine that this ordinance pertains to and is in the furtherance of health, welfare and safety of the residents of Grand Junction, particularly those residents under eighteen (18) years of age.

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

**Section 1. Definitions.** For the purposes of this ordinance, the following words or phrases shall have the meanings set forth.

- a. "TOBACCO PRODUCT" means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing or dipping tobacco. This definition does not include any nicotine containing product which is used for the purpose of helping a person stop smoking, such as nicotine gum or nicotine patches.

- b. "SMOKING" means the carrying or possession of a lighted cigarette, cigar, pipe, and includes lighting of the same.
- c. "SELF SERVICE DISPLAY" means any retail tobacco display to which customers have direct physical access, including cigarette vending machines.
- d. "MINOR" means any person under the age of eighteen (18).
- e. "VENDING MACHINE" means any mechanical, electric or electronic self-service device which, upon insertion of money, tokens or other form of payment, dispenses a tobacco product.

**Section 2. Possession and Use of a Tobacco Products by Minors.**

- a. It shall be unlawful for any minor to knowingly possess, consume, or use, either by smoking, ingesting, absorbing, or chewing, any tobacco product.
- b. It shall be unlawful for any minor to knowingly obtain or attempt to obtain any tobacco product by misrepresentation of age or by any other method.
- c. It shall be rebuttably presumed that the substance within a package or container is a tobacco product if the package or container has affixed to it a label which identifies the package or container as containing a tobacco product.

**Section 3. Furnishing Tobacco Products Prohibited.**

- a. Any person who knowingly furnishes any tobacco product to any minor by gift, sale, or any other means commits a violation hereof.
- b. It shall be an affirmative defense to a prosecution under this section that the person furnishing the tobacco product was presented with and reasonably relied upon a document which identified the person receiving the tobacco product as being eighteen (18) years of age or older.

**Section 4. Vending Machines.**

It shall be unlawful for any person to sell a tobacco product by use of a vending machine or other coin-operated machine; except that cigarettes may be sold at retail through vending machines only in:

- a. Factories, businesses, offices, or other places not open to the public; or
- b. Places to which minors are not permitted access

**Section 5. Retail Sale of Tobacco Products.**

- a. It shall be unlawful for any business proprietor, manager, or other person in charge or control of a retail business of any kind to engage, employ or permit any minor to sell any tobacco product from such retail business.
- b. It shall be unlawful for any business proprietor, manager or other person in charge or control of a retail business of any kind to use a self-service display of tobacco products or stock a tobacco product in any way which allows a customer to access such tobacco product without first securing the physical assistance of an adult business employee for each transaction. The provisions of this subsection 5. (b) shall not apply to stores possessing a valid retail liquor store license, as defined by the Colorado Liquor Code, issued by the City and to vending machines meeting the requirements of Section 4 of this Ordinance.
- c. Any person who sells or offers to sell any cigarettes or tobacco products at retail shall display a warning sign, as specified in this subsection.
- d. Said warning sign shall be displayed in a prominent place in the building and on such machine at all times and shall have a minimum height of three inches (3”) and a width of six inches (6”), and shall read as follows:

WARNING:  
 IT IS ILLEGAL FOR ANY PERSON UNDER  
 EIGHTEEN YEARS OF AGE TO PURCHASE OR POSSESS  
 CIGARETTES AND TOBACCO PRODUCTS.  
 UPON CONVICTION A FINE OF UP TO \$500 PLUS  
 NOT MORE THAN 48 HOURS OF USEFUL PUBLIC SERVICE  
 MAY BE IMPOSED.

**Section 6. Sale of Single Cigarettes Prohibited.** It shall be unlawful for any business proprietor, manager or other person in charge or control of a retail business of any kind to sell or offer to sell single cigarettes or any pack of cigarettes containing fewer than 20 cigarettes.

**Section 7. False or Altered Identification.** It shall be unlawful for any person under the age of eighteen (18) years of age to misrepresent that person’s identity or age, or use any false or altered identification for the purpose of purchasing any tobacco product.

**Section 8. Penalty.** Any person who violates any provision hereof is guilty of a petty offense and upon conviction shall be subject to:

- (a) a fine of up to fifty dollars (\$50) for the first offense; a fine of up to one hundred dollars (\$100) for the second offense; a fine of up to five hundred dollars (\$500) for a third offense; and up to one thousand dollars (\$1000.00) for each subsequent offense; and one year in jail;
- (b) except that a minor shall not be subject to any jail time but may be required to pay a fine not to exceed \$500.00, as provided and may be required to perform not more than 48 hours useful public service (which may include educational efforts or programs) or any combination of fine, public service and education.

**Section 9. Sunset Clause.** Within a month of the second and fourth anniversaries of the adoption of this ordinance, the City Council shall examine the effectiveness of this ordinance. Without further action by the City Council, the terms and provisions of this ordinance shall expire on the fifth anniversary of the effective date hereof.

**Section 10. Savings Clause.** Should any provision of this ordinance be found by a court of competent jurisdiction to be unconstitutional or otherwise unenforceable, the rest of the provisions hereof shall remain in full force and effect.

INTRODUCED ON FIRST READING THIS 3<sup>rd</sup> day of February, 1999.

PASSED AND ADOPTED on second reading this 17<sup>th</sup> day of February, 1999.

/s/ Janet Terry  
Mayor

ATTEST:

/s/ Stephanie Nye  
City Clerk