

ORDINANCE NO. _____

SERIES 2010

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON AMENDING CHAPTER 5.10, GENERAL OFFENSES, OF THE CITY OF GUNNISON MUNICIPAL CODE, BY THE ADDITION OF A PROHIBITION OF KNOWINGLY PERMITTING UNDERAGE POSSESSION OR CONSUMPTION OF ETHYL ALCOHOL ON PRIVATE PROPERTY IN A PERSON'S POSSESSION AND CONTROL.

WHEREAS, the City Council finds that the consumption of ethyl alcohol by underage persons is an ongoing problem in the community; and

WHEREAS, current efforts to regulate underage consumption of ethyl alcohol are directed at the point of sale and public possession/consumption ordinances; and

WHEREAS, current ordinances do not place the responsibility on the person in possession and control of private property to prevent the unlawful use of ethyl alcohol by underage individuals legally on said property; and

WHEREAS, law enforcement agencies are generally unable to detect or prevent the possession or consumption of ethyl alcohol by underage persons on private property before such consumption leads to behavior that poses a threat to the public health, safety, and welfare, to wit: excessive noise, driving under the influence, physical altercations, violent crimes including sexual assault, accidental injuries, vandalism, and disturbing the peace;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, ORDAINS THAT:

Section 1. The City of Gunnison Municipal Code, Chapter 5.10, General Offenses, is hereby amended to add the following section 5.10.241:

5.10.241. Knowingly allowing underage persons to possess or consume ethyl alcohol on private property.

- A. No person who is in possession and control of private property shall knowingly allow any persons under twenty-one years of age to possess or consume any ethyl alcohol anywhere on the private property in their possession and control.
- B. No person in possession and control of private property shall knowingly host, permit, or allow persons under twenty-one years of age to gather at said property, where ethyl alcohol is available, without making reasonable efforts to ensure that persons under twenty-one years of age do not consume ethyl alcohol, and ethyl alcohol is consumed by one or more persons under twenty-one years of age.
 1. Reasonable efforts include, but are not limited to, limiting the amount of ethyl alcohol available, limiting the size of the gathering, restricting access to ethyl alcohol by persons under twenty-one years of age, and obtaining valid state identification documents confirming a person's age.
- C. It shall be an affirmative defense to this section if the ethyl alcohol was possessed or consumed in accordance with GMC 5.10.230 B.
- D. Knowingly allowing underage persons to possess or consume ethyl alcohol on private property is a misdemeanor.

Section 2. Section 5.10.300 A, Surcharges Levied on Certain Offenses, is amended to read as follows:

5.10.300. Surcharges Levied on Certain Offenses.

- A. A surcharge in the sum of \$50.00 is hereby levied upon each criminal action resulting in a conviction or in a deferred judgment and sentence of the following sections of this code: GMC 5.10.080, 5.10.090, 5.10.220, 5.10.230, 5.10.240, and 5.10.241. The surcharge shall be paid to the municipal court clerk by the defendant in such action, who shall transmit the sums collected to Safe Ride of Gunnison County, Inc.

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INTRODUCED, READ, PASSED, AND ORDERED PUBLISHED this _____ day of _____, 2010, on first reading, and introduced, read, and adopted on second and final reading this _____ day of _____, 2010.

Mayor

(SEAL)

ATTEST:

City Clerk

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