

**ORDINANCE NO. 1342,
SERIES 2025**

**AN ORDINANCE AMENDING CHAPTER 18 OF THE CITY OF CORTEZ CODE OF
ORDINANCES REGARDING JUVENILE SENTENCING, AND UNDERAGE
PURCHASE, POSSESSION, AND CONSUMPTION OF TOBACCO, MARIJUANA,
ALCOHOL, AND THE UNDERAGE POSSESSION OF TOBACCO AND DRUG
PARAPHERNALIA**

WHEREAS, the City Council (the "Council") of the City of Cortez, Colorado (the "City"), adopted the Code of the City of Cortez, Colorado (the "Code"); and

WHEREAS, Chapter 18B of the Code, entitled "Offenses – Juvenile," contains some contradictory regulations concerning the prosecution, sentencing and incarceration of juveniles, who are defined as a Child, including persons who have reached the age of ten years and is under eighteen years of age at the time of the alleged offense; and

WHEREAS, Chapter 18, Section 18-57 of the Code, contains regulations concerning the underage possession, consumption, display, transfer, distribution, sale, or growth of marijuana, and it applies to defendants aged eighteen to twenty, but not to defendants under the age of eighteen years of age; and

WHEREAS, Chapter 18, Section 18-4 of the Code, contains regulations concerning the underage possession or consumption of alcohol, and it applies to defendants aged eighteen to twenty, but not to defendants under the age of eighteen years of age; and

WHEREAS, the Code does not currently contain any regulations concerning the purchase or possession of drug paraphernalia and the underage purchase, possession, or consumption of tobacco or the purchase or possession of tobacco paraphernalia; and

WHEREAS, the Council desires to revise Chapter 18B of the Code to address the contradictory provisions, desires to revise Chapter 18 to address the possession, consumption, display, transfer, distribution, sale, or growth of marijuana by defendants under the age of eighteen years of age, desires to revise Chapter 18 to add provisions to the Code that address the underage purchase, possession, consumption, display, transfer, distribution and sale of alcohol, and desires to revise Chapter 18 to add provisions to the Code to address the regulation of the purchase or possession of drug paraphernalia and the underage purchase, possession, or consumption of tobacco and the purchase or possession of tobacco paraphernalia.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF CORTEZ THAT CODE OF THE CITY OF CORTEZ, COLORADO IS HEREBY AMENDED AS FOLLOWS:

Section 18-B-9. - Juvenile sentencing. Amend by deleting this Subsection in its entirety and replacing it with the following language to remove jail as a possible penalty:

Upon the conviction of a violation of the Cortez City Code a juvenile as defined herein shall be subject to the penalties as set forth in Cortez City Code section 17-16A, except for a jail sentence shall not be

a possible penalty, and a juvenile may also be ordered at sentencing to perform community service as a condition of any suspended sentence. Any costs imposed to perform community service shall be the responsibility of the juvenile and/or the juvenile's parents, and such costs shall be included in the fines and costs assessed by the court at sentencing.

Section 18-57. – Underage consumption/possession of marijuana. Amend as follows:

Repeal Subsection 18-57(a) in its entirety and replace it with the following:

(a) Any person under twenty-one years of age who purchases, possesses, consumes, uses, displays, transfers, distributes, sells, or grows marijuana or marihuana as defined in Cortez City Code section 18-56(a)(1), in the city limits of Cortez, commits illegal purchase, possession or consumption of marijuana by an underage person. Illegal purchase, possession or consumption of marijuana by an underage person is a strict liability offense.

Repeal Subsection 18-57(b) in its entirety and replace it with the following:

(b) Illegal purchase, possession, consumption, use, display, transfer, distribution, sale, or growing of marijuana by an underage person shall be punished as set forth in section 17-16A, sentencing, municipal court, Cortez City Code, now in effect or as may be amended from time to time, except for a jail sentence shall not be a possible penalty for persons under eighteen years of age. The court, upon sentencing a defendant pursuant to this paragraph (b), may, in addition to any fine, for defendants over eighteen years of age, suspend jail time on the condition that the defendant submit to and complete a substance abuse assessment, a substance abuse education program, or a substance abuse program at such defendant's own expense.

Repeal Subsection 18-57(c)(2) in its entirety and replace it with the following:

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

(2) Evidence that the defendant was under the age of twenty-one years and manifested any of the characteristics commonly associated with marijuana consumption, or impairment, or is under the influence of marijuana while present anywhere in the City of Cortez; or

(3) Evidence that the defendant was under the age of twenty-one years and purchased, displayed, transferred, distributed, grew or sold marijuana.

Repeal the last sentence in Section 18-57 in its entirety and replace it with the following:

A violation of this section shall be punishable as set forth in chapter 17, section 17-16A, sentencing, municipal court, Cortez City Code now in effect or as may be amended from time to time, except for a jail sentence shall not be a possible penalty for persons under eighteen years of age.

Section 18-8. – Underage possession or use of tobacco and tobacco paraphernalia. Amend by adding Section 18-8 to read as follows:

(a) It shall be unlawful for any person under twenty-one years of age to purchase or attempt to purchase, possess, use or consume any cigarettes or tobacco products as defined by this section,

including chewing tobacco, at or upon any public place, within the City of Cortez.

(b) It shall be unlawful for any person under twenty-one years of age to purchase, possess, or use, at or upon any public place within the City of Cortez, tobacco paraphernalia used to ingest, inhale, or otherwise introduce a tobacco product into the human body, if the person knows or reasonably should know that the tobacco paraphernalia could be used under circumstances in violation of the laws of the City of Cortez. Tobacco paraphernalia means electronic smoking devices as defined herein, and any and all of those items listed in the definition of “drug paraphernalia” in C.R.S. § 18-18-426, when those items are used instead to ingest, inhale or otherwise introduce a tobacco product into the human body.

(c) Definitions.

(1) The term "electronic smoking device" means any electronic oral device such as one composed of a heating element, battery, and/or electronic circuit which provides a vapor of nicotine or any other substance for inhalation. The term “electronic smoking device” shall include every variation and type of such devices whether they are manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pen, an electronic pipe, an electronic hookah, or a vape pen, or any other product name or descriptor.

(2) The term “public place” includes the following places:

(a) Property owned, leased or operated, inside of the City of Cortez city limits, by the United States of America, the State of Colorado, Montezuma County, the City of Cortez, and any school district, or any agencies or political subdivisions thereof.

(b) The entire width of street and alley rights-of-way, parking areas and grounds outside the establishments open to the public such as restaurants, grocery stores, convenience stores, bars and other places of public gathering for amusement and entertainment.

(c) The inside of vehicles located upon any of the above-listed places.

(3) The term “tobacco product” means any product that contains nicotine or tobacco or is derived from nicotine or tobacco and is intended to be ingested or inhaled; or any electronic device that can be used to deliver nicotine to the person inhaling from the device, including, but not limited to, electronic smoking devices, cigarettes, cigars, cheroots, stogies, and perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. The term “tobacco product” also includes cloves and any other plant matter or product that is packaged for smoking. The term “tobacco product” does not mean a product that the Food and Drug Administration of the United States Department of Health and Human Services has approved as a tobacco use cessation product.

(d) Penalty. A violation of this Section shall be punishable as set forth in chapter 17, section 17-16A, sentencing, municipal court, Cortez City Code now in effect or as may be amended from time to time, except for a jail sentence shall not be a possible penalty for persons under eighteen years of age.

(e) This Section does not prohibit an employee of a retailer who is eighteen years of age or older,

but under twenty-one years of age, from handling or otherwise having any contact with cigarettes or tobacco products that are offered for sale at the retailer's business.

(f) No driver of a vehicle shall be stopped or occupant of a vehicle cited for a violation of this Section unless such driver was stopped by a law enforcement officer for an alleged violation of the Colorado Revised Statutes or the traffic code as adopted by the City of Cortez, other than a violation of this Section, except that nothing in this Section shall prohibit the issuance of a citation if contact was initially made in a police-citizen voluntary contact or a contact predicated upon community caretaking functions of a peace officer.

Section 18-9. – Underage possession of drug paraphernalia. Amend by adding Section 18-9 to read as follows:

(a) It shall be unlawful for any person to possess drug paraphernalia if that person knows, or reasonably should know, that the drug paraphernalia could be used under circumstances in violation of the laws of the State of Colorado or of the City of Cortez. Drug paraphernalia shall be defined as set forth under C.R.S. § 18-18-426 for the purpose of this Section.

(b) Penalty. A violation of this Section shall be punishable as set forth in chapter 17, section 17-16A, sentencing, municipal court, Cortez City Code now in effect or as may be amended from time to time, except for a jail sentence shall not be a possible penalty for persons under the eighteen years of age.

Section 18-4. – Prohibition of underage consumption of alcohol. Amend the title to read as follows:

Section 18-4. – Prohibition of underage purchase, possession, consumption, display, transfer, distribution or sale of alcohol.

Section 18-4. – Prohibition of underage consumption of alcohol. Amend Sections (b)(1), (b)(2), (e), and (g) to read as follows:

(b) (1) Any person under twenty-one years of age who purchases, possesses, consumes, displays, transfers, distributes or sells ethyl alcohol anywhere in the city of Cortez commits illegal the purchase, possession, consumption, display, transfer, and distribution of ethyl alcohol by an underage person.

Illegal purchase, possession, consumption, display, transfer, and distribution of ethyl alcohol by an underage person is a strict liability offense.

(b) (2) Illegal purchase, possession, consumption, display, transfer, distribution or sale of ethyl alcohol by an underage person shall be punished as set forth in section 17-16A, sentencing, municipal court, Cortez City Code, now in effect or as may be amended from time to time, except for a jail sentence shall not be a possible penalty for persons under eighteen years of age. The court, upon sentencing a defendant pursuant to this paragraph (b), may, in addition to any fine, for defendants over eighteen years of age, suspend jail time on the condition that the defendant submit to and complete a substance abuse assessment, a substance abuse education program, or a substance abuse program at such defendant's own expense. The court, upon sentencing a defendant pursuant to this paragraph (b), may, for defendants under eighteen years of age, suspend the fine on condition that

the defendant submit to and complete an alcohol evaluation or assessment, an alcohol education program, or an alcohol treatment program at such defendant's own expense.

(e) Prima facie evidence of a violation of subsection (b) of this section shall consist of:

(1) Evidence that the defendant under twenty-one years of age possessed or consumed ethyl alcohol anywhere in the city of Cortez; or

(2) Evidence that the defendant under twenty-one years of age and manifested any of the characteristics commonly associated with ethyl alcohol intoxication or impairment while present anywhere in the city of Cortez.

(g) A parent or legal guardian of a person twenty-one years of age or younger, or any natural person who has the permission of such parent or legal guardian, may give or permit the possession and consumption of ethyl alcohol to or by a person under twenty-one years of age under the conditions described in subsection (c)(1) of this section. This subsection shall not be construed to permit any establishment which is or is required to be licensed pursuant to article 46, 47, or 48 of title 12, C.R.S., or any members, employees, or occupants of any such establishment to give, provide, make available, or sell ethyl alcohol to a person under twenty-one years of age.

REPEALER. All orders, bylaws, and resolutions of the City, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed to the extent only of such inconsistency or conflict. All ordinances adopting or amending the City of Cortez Land Use Code are hereby repealed in their entirety.

SEVERABILITY. If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

RECORDING AND AUTHENTICATION. Upon adoption hereof, this Ordinance shall be recorded in a book kept for that purpose and shall be authenticated by the signatures of the Mayor and the City Clerk.

EFFECTIVE DATE. This ordinance shall be effective upon publication after Second Reading and final passage by City Council (the "Effective Date").

FIRST READING. This ordinance shall be considered on first reading on the 8th day of July, 2025, at the hour of 7:30 p.m., in the City Council Chambers in City Hall, Cortez, Colorado, at which time this ordinance shall be read and the public hearing for the second or final reading of this ordinance shall be set.

PUBLIC HEARING. This ordinance shall be considered for second or final reading on the 22nd day of July, 2025, at the hour of 7:30 p.m., in the City Council Chambers in City Hall, Cortez, Colorado, at which time and place all persons may appear and be heard concerning the same.

PASSED, ADOPTED AND APPROVED ON FIRST READING THIS 8th DAY OF JULY, 2025.

CITY OF CORTEZ



RACHEL B. MEDINA, MAYOR

ATTEST:



DANIELLE WELLS, CITY CLERK

PASSED, ADOPTED AND APPROVED ON SECOND AND FINAL READING THIS 22nd DAY OF JULY, 2025.

CITY OF CORTEZ



RACHEL B. MEDINA, MAYOR

ATTEST:



DANIELLE WELLS, CITY CLERK

APPROVED AS TO FORM:



J. PATRICK COLEMAN, CITY ATTORNEY