

ORDINANCE NO. 09-5491

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~~3/19/13~~  
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AN ORDINANCE AMENDING CHAPTER 18 (OFFENSES) OF THE BILLINGS CITY CODE BY ADDING A NEW ARTICLE 12 TO BE KNOWN AS THE SOCIAL HOST ORDINANCE

Section 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

That Chapter 18 of the Billings City Code is hereby amended by adding a new Article 12 as follows:

Chapter 14  
SOCIAL HOST

Section	Title
18-1201	PURPOSE, FINDINGS
18-1202	DEFINITIONS
18-1203	PROHIBITED ACTS
18-1204	PENALTIES
18-1205	EXCEPTIONS

**18-1201 Purpose, Findings**

WHEREAS consumption of alcoholic beverages by minors and parties where minors consume alcoholic beverages present numerous problems for our community, minors and law enforcement. Specifically:

- Montana teens report one of the highest binge drinking rates in the nation (defined as 5 or more drinks in one sitting)
- Eighty-four percent (84%) of underage drinkers were in their own home or in someone else's home when they had their last drink.
- In Yellowstone County in 2008:  
One out of ten (10.6%) of eighth graders, almost one out of four (23.5%) tenth graders, and more than one third of twelfth graders (36.3%) reported binge drinking in the two weeks prior to being surveyed.

WHEREAS alcohol abuse is also linked to several other health and life issues for our youth including but certainly not limited to sexual assault, unprotected sexual activity, teenage pregnancy, STDs, physical assault and academic difficulties; and,

WHEREAS, the CITY COUNCIL of the City of Billings finds and declares that the purpose of this ordinance is:

- (1) to protect public health, safety and general welfare;

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- (2) to enforce laws prohibiting the consumption of alcohol by minors;
- (3) to reduce the costs of providing police services to parties, gatherings, or events that require a response by requiring social hosts to ensure minors are not consuming alcoholic beverages; and,

WHEREAS under Montana Code Annotated 7-1-4123, Legislative powers, the City of Billings has the legislative power, subject to the provisions of state law, to adopt, amend, and repeal ordinances and resolutions required to:

- (1) Preserve peace and order and secure freedom from dangerous of noxious activities;
- (2) Secure and promote the general public health and welfare; and,

WHEREAS Montana Code Annotated 7-32-4302, allows the City of Billings to both control disturbances of the peace as well as prevent intoxication and disorderly conduct within the city and within three miles of the limits.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL:

#### **18-1202 Definitions**

##### **Alcohol or Alcoholic Beverage:**

Mont. Code Annotated 16-1-106. Definitions. As used in this Article, the following definitions apply:

- (1) "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.
- (2) "Alcoholic beverage" means a compound is produced and sold for human consumption as a drink that contains more than 0.5% of alcohol by volume.
- (3) "Beer" means a malt beverage containing not more than 7% of alcohol by weight
- (4) "Table wine" means wine that contains not more than 16% alcohol by volume and includes cider.
- (5) "Wine" means an alcoholic beverage made from or containing the normal alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except as may occur in the usual cellar treatment of clarifying and aging, and that contains more than 0.5% but not more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies, sweetened, and fortified in accordance with applicable federal regulations and the customs and practices of the industry. Other alcoholic beverages not defined in this subsection but made in the manner of wine and labeled and sold ad wine in accordance with federal regulations are also wine.

##### **Emergency Responders:**

Includes, but is not limited to, law enforcement officers, firefighters, emergency medical service personnel and other persons having emergency response duties.

##### **Enforcement Services or Response Costs:**

Includes the salaries and benefits of emergency responders for the amount of time actually spent responding to or remaining at an event, gathering or party and administrative costs attributable to the incident; the actual costs for medical treatment for any injured emergency responder, and the costs of repairing any damage to emergency responder equipment or vehicles, and the cost of use of such equipment of vehicle.

**Parent:**

Any person having legal custody of a juvenile including natural parent, adoptive parent, step-parent; legal guardian; person to whom legal custody has been given by court order.

**Person:**

"Person" includes a corporation, company, partnership, association or society as well as a natural person.

**Premises:**

Any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, hall or meeting room, park or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented or used with or without permission or compensation.

**Social Host:**

Any person who conducts, allows, organizes, supervises, controls, permits or aids another in conducting, allowing, organizing, supervising, controlling or permitting an event or gathering. The term includes, but is not limited to the following:

- (1) Any person or persons who owns, rents, leases or otherwise controls the premises where the event, gathering or party takes place;
- (2) The person or persons in charge of the premises;
- (3) The person or persons who organized the activity.

**Underage Person:**

Any person less than 21 years of age.

**18-1203 Prohibited Acts**

It is a violation of this Chapter for a social host who knows or reasonably should know that an underage person has possessed or consumed alcohol at an event, gathering or party, to fail to take reasonable steps to prevent the underage consumption or possession by the underage person. The social host does not have to be present at the event, gathering or party at the time the prohibited act occurs.

**18-1204 Penalties**

Any person found guilty of a violation of this Chapter shall be guilty of a misdemeanor, and punished as provide in BMCC Sec. 1-110. In addition to penalties provided therein, the Municipal Judge shall consider any response costs incurred by the City associated with any event, gathering, or party resulting in a violation of this Chapter, and may order restitution to the City for such response costs upon conviction.

**18-1205 Exceptions**

The provision of an alcoholic beverage in a non-intoxicating quantity to a person under 21 years of age by the person's parent or guardian, physician or dentist for medicinal purposes, a licensed pharmacist upon the prescription of a physician, or an ordained minister or priest in connection with a religious observance shall not constitute a violation of this Chapter. (See Mont. Code Ann. 16-6-305).

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading the 13th day of April, 2009.

PASSED, ADOPTED and APPROVED on second reading the 27th day of April, 2009.



CITY OF BILLINGS

By *Ron Tussing*  
Ron Tussing, Mayor

ATTEST:

By *Cari Martin*  
Cari Martin, City Clerk

Sec. 1-110. - Violations; penalty.[permanent link to this piece of content](#)

(a) Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Code or any ordinance of this city or any rule or regulation adopted pursuant to this Code, shall be guilty of a misdemeanor, and any person convicted of a misdemeanor under this Code or any ordinance of this city, shall be punished by a fine of not more than five hundred dollars (\$500.00), or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code or any ordinance of this city, is committed, continued or permitted by any such person, and he/she shall be punished accordingly.

(b) In addition to the above penalty the city may abate any condition which is in violation of this Code.

(c) Any person found to have committed an offense specifically designated as a municipal infraction shall be subject to civil penalties as specified in section 18-1304

(Code 1967, § 1.04.070; Ord. No. 10-5501, § 1, 1-11-10)

State law reference— Limitation on penalties, MCA 7-1-111(8), 7-5-109.

Sec. 18-1304. - Penalties.[permanent link to this piece of content](#)

(a) A municipal infraction is a civil offense and for a proven violation, a civil penalty may be imposed.

(b) For a first violation, a civil penalty of not more than three hundred dollars (\$300.00) shall be imposed.

(c) For each repeat violation, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed. Each day that a violation occurs or is permitted to exist constitutes a separate and distinct infraction.

(d) Seeking a civil penalty as authorized in this article does not preclude the city from seeking alternative relief from the court in the same action.

(e) Statutory surcharges and required city surcharges must be imposed, as provided in MCA 3-1-317(1)(a), 3-1-318(1), and 46-18-236 (6), on municipal infractions that are criminal offenses under state law, and the amounts must be distributed as provided in those sections.

(f) All penalties and forfeitures collected by the municipal court for a municipal infraction shall be remitted to the city in the same manner as fines and forfeitures collected for criminal offenses.

(g) A defendant against whom judgment is entered shall pay court costs and fees as in small claims court under Title 25, Chapter 35 of the Montana Code Annotated in addition to the penalties imposed by the court.

(h) In addition to the imposition of civil penalties authorized by law against a defendant, the court may impose alternative relief in the same action. Alternative relief may consist of any of the following:

(1) Direct that payment of the civil penalty be suspended or deferred under conditions imposed by the court;

(2) Order the defendant to abate or cease the violation;

(3) Authorize the city to abate or correct the violation;

(4) Order the city's costs for abatement or correction of the violation be entered as a judgment against the defendant or assessed against the property where the violation occurred or both.

(i) The municipal court may assess or enter judgment for costs of abatement or correction in any amount not to exceed the jurisdictional amount for a money judgment in a civil action under MCA 3-11-103. If the city seeks abatement or correction costs in excess of this amount, the matter shall be referred to district court for hearing and entry of an appropriate order. The procedure for hearing in the district court shall be the same procedure as that for a small claims appealed under MCA 25-35-803.

(j) A defendant who willfully violates the terms of an order imposed by the municipal court is guilty of contempt.