

3/19/13  
HB 497

Bozeman

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**ARTICLE 5. - OFFENSES AGAINST PUBLIC PEACE**

Sec. 24.05.020. - Special security service charges at loud or unruly gatherings.

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A. *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

- 1. "Responsible person" shall mean a person with a right of possession in the property on which a loud or unruly gathering is conducted, including, but not limited to, an owner or tenant of the property if the gathering is on private property, or a permittee if the gathering is a permitted gathering on public property, or any person accepting responsibility for such a gathering. The term "responsible person" shall additionally include the landlord of another responsible person and the parents and/or legal guardians of responsible persons under the age of 21 years. To incur liability for special security service charges imposed by this section, the responsible person need not be present at the loud or unruly gathering resulting in the emergency response giving rise to the imposition of special security service charges. This section therefore imposes vicarious as well as direct liability upon responsible persons.
- 2. "Special security services" shall mean the provision of any police, fire or other emergency response service to a loud or unruly gathering within 12 months of a first response as provided in this section.
- 3. "Loud or unruly gathering" shall mean a gathering of two or more persons on private property or a permitted gathering of two or more persons on public property whose loud or unruly conduct constitutes a threat to public health, safety, quiet enjoyment of residential property or general welfare, including violations of chapter 16, article 2. This term excludes incidents of domestic violence. A loud or unruly gathering shall constitute a public nuisance.

B. *Response to loud or unruly gatherings.* When a police officer responds to a first loud or unruly gathering at premises in the city with a given address, the officer shall inform any responsible person at the scene that:

- 1. The officer has determined that a loud or unruly gathering exists; and
- 2. Responsible persons will be charged for the cost of any special security services required for subsequent responses to the scene within the next 12 months.

Only one warning will be given pursuant to this subsection before the city assesses special security service costs pursuant to subsection C of this section. If a responsible person cannot be identified at the scene, the police department may issue a warning to one of the other responsible persons identified in subsection A of this section or subsequently return to the scene and issue the warning to a then-present responsible person. Warnings given to responsible persons who do not reside at the premises in question shall be delivered by certified mail.

*C. Cost recovery for special security services.* When the police department or fire department or other city emergency responder responds to a loud or unruly gathering at premises with a given address in the city within 12 months of a warning given to a responsible person for those premises pursuant to subsection B of this section, or while any such warning remains in effect pursuant to subsection E of this section, all responsible persons shall be jointly and severally liable for the city's costs of providing special security service for that response and all subsequent responses during that warning period.

*D. Billing and collection.* Charges for special security service shall include a reasonable charge for the emergency responder's time and actual costs of any equipment used or damaged in connection with the response, together with an additional 33 percent of the special security charge for administrative overhead. These charges shall be computed and a bill submitted to the responsible person. The chief of police shall promulgate notice and billing procedures for this purpose. The bill shall be a debt owed to the city and failure to pay that bill within 30 days is a violation of this Code. If the city is obliged to initiate litigation or other proceedings authorized by this Code to recover this debt, the responsible person shall be liable for:

1. Costs of suit;
2. Attorney's fees; and
3. Costs of collection.

*E. Violations/fines.*

1. It shall be an infraction for a responsible person to conduct or allow a loud or unruly gathering on premises owned by the responsible person or on premises rented by or to the responsible person. A third or subsequent violation within a 12-month period shall constitute a misdemeanor.

2. Fines.

a. A first violation of this section shall be punishable by a \$100.00 fine.

b. A second violation of this section at a given address in the city within a given 12-month period shall be punishable by a fine of \$250.00.

c. A third or subsequent violation of this section at a given address in the city within a given 12-month period shall be punishable by a fine of \$500.00.

3. The fines prescribed in subsection E.2 of this section are in addition to any special security service charges that may be assessed pursuant to this section.

4. The second, third or subsequent violation fines prescribed in subsections E.2.b and c of this section are payable whether or not the responsible person at the time of the current loud or unruly gathering is the same person who was the responsible person for any prior loud or unruly gathering at those premises.

5. The fine schedule prescribed in subsection E.2 of this section is a "rolling schedule" meaning that in calculating the fine payable the police department or city attorney shall count backward starting from the date of the most recent loud or unruly gathering to determine how many prior loud or unruly gatherings have taken place at the premises in question during the statutory 12-month period. A warning given pursuant to subsection B of this section shall remain in effect for the premises at a given address until a full 12-month period has elapsed during which there have been no loud or unruly gatherings at those premises.

F. *Service of alcoholic beverages to minors.* The city commission hereby finds that the service of alcohol to minors at loud and unruly gatherings and the consumption of alcohol by minors at loud or unruly gatherings has in the past and continues to pose a threat to the health and safety of all persons who reside in the city and also causes significant disruption of city residents' quiet enjoyment of their households, especially in the city's residential neighborhoods. In addition, such conduct on behalf of persons who serve alcohol to minors and minors who consume alcohol at loud or unruly gatherings results in the expenditure of a disproportionate percentage of the city's police, fire and public safety resources which are underwritten primarily by general municipal taxes paid to the city by its taxpayers and residents. It is therefore the policy of the city commission that in responding to loud or unruly gatherings, the city police department shall strictly enforce any and all applicable state laws pertaining to the service of alcohol to minors, and the consumption of alcohol by minors, and with respect to minors in possession of alcohol, the police department shall establish a "no tolerance" protocol by which the police department contacts, or causes the minor's school to contact, the minor's parents or legal guardians whenever the minor is found to be in possession of alcohol or narcotics or found to be intoxicated at a loud or unruly gathering. Where the minor's school has an internal student disciplinary office, any such incident shall likewise be reported to that office.

(Ord. No. 1656, § 1(9.72.010—9.72.060), 12-12-2005)