

**4-2-11: DRINKING IN PUBLIC; PUBLIC DISPLAY AND EXHIBITION OF ALCOHOLIC BEVERAGES:**

A. Definitions: As per adoption of Montana Code Annotated section 16-1-106 in section 4-2-2 of this chapter, the state definitions shall apply. In addition thereto, the following words and phrases, as used herein, shall be defined as follows:

BUSINESS DISTRICT: That portion of the city which comprises the following designated areas:

1. All of U.S. Highway 2, which transects the city and is designated as Main Street within the city;
2. All of that street designated as truck route, which runs parallel to U.S. Highway 2 and Main Street through the city;
3. All that portion of Central Avenue in the city from that intersection known as First Street South and Central Avenue to that portion of Central Avenue which exits the city and becomes U.S. Highway 287, exiting the city to the north;
4. The east half of First Avenue Southwest between First Street and Main Street; and
5. Within one-half ( $\frac{1}{2}$ ) block on either side of any business establishment licensed to sell beer and wine or licensed to be a retail liquor seller.

PUBLIC DISPLAY OR EXHIBITION OF BEER OR LIQUOR: The carrying or transporting of open containers containing any alcoholic beverage in a "public place" as defined in Montana Code Annotated section 16-1-106; but does not include empty containers; nor does it include carrying or transporting unopened alcoholic beverages in sacks or other containers; it further does not include the collection and transportation of empty containers for salvage, recycling, or refuse collection purposes.

PUBLIC DRINKING: The drinking and consuming of any alcoholic beverage in any "public place" defined in Montana Code Annotated section 16-1-106.

B. Prohibitions: "Public drinking" and "public display or exhibition of beer or liquor" as defined herein are hereby prohibited, and it shall be unlawful and a misdemeanor for any person to engage in these activities as defined in this section within the city limits.

C. Exemptions:

1. Petition For Exemption: Any person, business, organization, or group may petition the city council for the purpose of waiving enforcement of this section during any activity or event, such as the Lewis and Clark Festival or a public street dance. If the council permits said special exemption, then no person may be charged with violating this section during said permitted event. The city council may permit any such event by passing a resolution to that extent.

2. Metal Can Containers Permitted: While other provisions of this code prohibit glass containers in any of the city's parks<sup>1</sup>, this section shall not be construed as prohibiting any person from using the city's Main Street Park for a family picnic or similar activity, wherein canned beer or alcoholic beverages are consumed.

D. Signs Posted: The city shall have available and shall provide two (2) signs, said signs stating that the city has an open container ordinance prohibiting public drinking, exhibition or display. Each retail licensee selling beer, wine or liquor shall place these signs in his business establishment in a prominent location so that the patrons are advised of this section. No penalty may be imposed on the business owner for failure to post these signs.

E. Violation; Penalties: Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars (\$100.00) nor greater than five hundred dollars (\$500.00) for a first offense within a calendar year. A second conviction shall result in a fine of not less than three hundred dollars (\$300.00) nor more than five hundred dollars (\$500.00). A third or subsequent conviction shall result in a fine not less than five hundred dollars (\$500.00). (Ord. 11.06, 6-18-2001; amd. 2006 Code)

Notes

<sup>1</sup> 1. See section 8-5-1 of this code.