

ORDINANCE NO. 2854

AN ORDINANCE AMENDING TITLE 9, CHAPTER 09.20, SECTIONS 9.20.040, 9.20.050, 9.20.060, OF THE OFFICIAL CODES OF THE CITY OF GREAT FALLS, MONTANA, PERTAINING TO INTOXICATING BEVERAGES.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

That the section of OCCGF, Title 9, Chapter 09.20, Sections 9.20.040, 9.20.050, 9.20.060, pertaining to Intoxicating Beverages be amended as depicted in Exhibit A in its entirety, adding language which is in bold type and removing any language indicated by a strike-out code.

PASSED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, this 24th day of June, 2003.

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Randall H. Gray, Mayor

ATTEST:

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Melodi A. Wald, Deputy City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

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David V. Gliko, City Attorney

State of Montana        )  
County of Cascade     : ss.  
City of Great Falls    )

I, Melodi A. Wald, Deputy City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Ordinance No. 2854 was placed on its final passage and passed by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 24th day of June, 2003, and approved by the Mayor of said City on the 24th day of June, 2003.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City on this 24th day of June, 2003.

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Melodi A. Wald, Deputy City Clerk

(SEAL OF CITY)

State of Montana        )  
County of Cascade     : ss.  
City of Great Falls    )

Melodi A. Wald, being first duly sworn, deposes and says: That on the 24th day of June, 2003, and prior thereto, she was the Deputy City Clerk of the City of Great Falls, Montana; that as said Deputy City Clerk she did publish and post as required by law and as prescribed and directed by the Commission, Ordinance No. 2854 of the City of Great Falls, in three conspicuous places within the limits of said City to-wit:

- On the Bulletin Board, first floor, Civic Center Building;
- On the Bulletin Board, first floor, Cascade County Court House;
- On the Bulletin Board, Great Falls Public Library

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Melodi A. Wald, Deputy City Clerk

(SEAL OF CITY)

Ordinance 2854 - Exhibit A  
Chapter 9.20

INTOXICATING BEVERAGES

**Sections:**

- 9.20.010 Definitions.
- 9.20.020 Unlawful within City limits.
- 9.20.030 Exception--Public facilities.
- 9.20.040 Violation--Penalty.

**9.20.010 Definitions.** For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

A. "Beer" means any beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt, hops or any similar products, containing not more than four percent of alcohol by weight.

B. "Liquor" means any alcoholic, spirituous, vinous, fermented, malt or other liquor which contains more than one percent of alcohol by weight.

C. "Public display or exhibition of beer, wine, or liquor" means the carrying and exhibiting of open cans or bottles of beer or the carrying and exhibition of glasses or other types of containers for beer, wine, or liquor, even though empty, on or within any public place as defined herein or on or within any vehicle that is upon a public place as defined herein. This definition does not include carrying or transporting beer, wine, or liquor from retail or wholesale liquor or beer establishments in sacks, cases, boxes, cartons, or other similar containers if the seal for the alcoholic beverage container is unbroken; nor does this definition include those situations wherein the alcoholic beverage container is being transported or carried to a recycling center or garbage disposal site; nor does this definition include transportation of alcoholic containers in a compartment of the vehicle that is outside the passenger area of the vehicle and which area is not accessible to the driver and passenger of the vehicle from the passenger area while the vehicle is in operation.

D. "Public drinking" means the drinking or consuming of beer, wine or liquor within or upon any vehicle that is upon a public place as defined herein or upon any public place in the City.

E. "Public places" means all ~~vehicles~~, streets, avenues, alleys, **city parks** publicly owned parking lots, and privately owned parking lots open to the public for parking in the City. This definition does not include the premises licensed for the sale of liquor or beer at retail by the Liquor Division of the Montana Department of Revenue. For purposes of this definition the term "premises" shall have the same meaning attributed to that term by the Department of Revenue pursuant to its administrative regulations, which term is defined as follows: the building or any specific portion of any building in which the liquor and/or beer business is conducted and those areas in which the licensee operates a sidewalk cafe, open-air restaurant or tavern outside and adjacent to the license building and to which patrons are permitted free access from said building.

F. "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway.

G. "Wine" means an alcoholic beverage made from 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 not less than seven percent or more than twenty-four percent of alcohol by volume. Other alcoholic beverages made in the manner of wine and labeled and sold as wine in accordance with federal regulations are also wine. (Ord. 2342 ' 2(part), 1983).

**9.20.020 Unlawful within City limits.** A. Except as provided in subsections A, B, C and D of Section 9.20.030, public drinking and public display and exhibition of beer, wine or liquor as defined in this chapter are prohibited. Except as provided for herein, it is unlawful for any person to engage in public drinking, public display or exhibition of beer or liquor within the City limits. (Ord. 2525 ' 1, 1988: Ord. 2453 ' 1(part), 1987: Ord. 2342 ' 2(part), 1983).

**9.20.030 Exception--Public facilities.** A. A long-term lease with any individual, association, organization or corporation for use of public facilities who desires to serve beer, wine or liquor in a public facility may do so by including the necessary language within the lease document. The long-term lease must specifically mention alcohol consumption; provide proof of general liability insurance in the minimum amount of one million dollars coverage per occurrence; and the individual, association, organization or corporation must indemnify and hold the City harmless for any and all liability arising out of the leased use of such facility. The lease must contain the following information: proof of compliance with state and local alcohol licensing if alcohol is to be served, certification that alcohol will be provided only to persons of legal age and that the City will be held harmless for any liability. (Ord. 2647 (part), 1994).

B. Where any of the Civic Center facilities are reserved for a special event by any person or organization, and that person or organization desires to serve beer, wine or liquor, an application for a permit to serve such alcoholic beverage must accompany the application for the reservation of such facilities. ~~The person or organization must provide proof of general liability insurance in the minimum amount of one million dollars coverage per occurrence, proof of compliance with state and local alcohol licensing, and must indemnify and hold the City harmless for any and all liability arising out of the reserve use of such facility.~~ **Requirements for this permit are set out in section 9.20.050 of this chapter.** (Ord. 2647 (part), 1994).

C. ~~Any individual, association, organization or corporation may apply for a special permit to be issued by the Park and Recreation Director authorizing the possession and drinking of beer and wine in a designated area of Elks Riverside Park one weekend nearest the 4th of July of each year between the hours of 10:00 a.m. and 10:00 p.m. The application must be accompanied by proof of a general liability insurance with a minimum of one million dollars coverage per occurrence. The applicant must also execute an indemnification agreement holding the City harmless for any and all liability arising out of the permitted use of the park. The permit shall require the applicant to maintain on-site security at all times during the permitted use of the park as well as a cleanup commitment after the permitted use.~~ **Any individual, association, organization or corporation desiring to serve beer, wine or liquor upon a public place as defined in this chapter may obtain a permit for each use from the City Manager for one day in accordance with the requirements herein. Further limitations for the use of parks include:**

**1. Any alcohol possession allowed in any city park pursuant tot his chapter shall be permitted only during the hours designated in the permit. Applicant must make known upon application what the intended hours of the event will be.**

2. No glass alcohol beverage containers shall be allowed in the city parks.

3. City park users must clean up the park to a state at least as clean as when they arrived and permit holder shall be solely responsible for the immediate and timely picking up and removal or proper disposal of garbage at the location where the permit is issued within the park (Ord. 2647 (part), 1994).

D. Designated areas of the "State Fair" grounds shall be exempt from the prohibition of Section 9.20.020. (Ord. 2525 ' 2, 1988; Ord. 2453 ' 1(part), 1987: Ord. 2399 ' 1, 1985: Ord. 2342 ' 2(part), 1983).

**9.20.040 Requirements of permit for Alcohol.** The application for a permit under this chapter shall contain the name of the person or entity requesting the permit, the location of the proposed event, the permission of the city department head responsible for the public land involved to utilize the land for the requested function, and the day(s), times(s) and duration of the event. Applications must be turned in for review a minimum of fourteen (14) days prior to the event to allow for adequate review time.

**9.20.050 Criteria for Public Interest.** In reviewing the application for a permit to serve alcoholic beverages in public facilities, the City Manager shall consider the following factors:

A. Whether the proposed activity contributes to the cultural, recreational or entertainment opportunities available to the community;

B. The appropriateness (inclusive of zoning restrictions) of the public land or facility for the proposed use.

C. Any negative impact on adjacent property the proposed use might have;

D. What security, crowd control and litter control measures the applicant will be utilizing for the event or activity;

E. What the hours of the proposed use are and whether there are any residences nearby that could be disturbed by late night conduct, noise and activity;

F. Whether the proposed activity is sponsored in whole or in part by a public agent or entity; and,

G. The City Manager is further authorized some discretion and flexibility for determining the amount of the damage deposit or bond in Section 9.020.060 of this code. Criteria for setting the amount of the deposit shall be anticipated number of people attending the event; estimated amount of alcohol likely to be available for consumption; applicant's demonstration of crowd control and a litter plan; and numbers of past events on public property where there were no damage or litter issues after the completion of the event. The manager's determination may be appealed to the City Commission.

**9.20.060 Conditions for Permit for Alcohol – Public Facilities (Except the Civic Center).** In no event shall a permit to serve alcohol on/at a public facility be issued unless the following conditions are met:

A. The event for which the permit is authorized is open to, or may be attended by members of the general public.

B. A refundable damage deposit in a range between five hundred and one thousand five hundred dollars shall be charged to cover against damage, destruction, vandalism, and litter at or adjacent to the location of the event or activity. The amount shall be determined

pursuant to Section 9.20.050(G) of this chapter. The bond may not be returned until at least ten calendar days after the conclusion of the event and the City Manager may deduct from any damage deposit or make claim against any bond for any reasonable city expense for cleaning up litter and/or repairing or replacing damaged or destroyed public property or public land.

C. Issuance of this permit shall be made by the City Manager only after such use of the public place has been approved by the Police Chief, Fire Chief and Department Head responsible for the public facility, and the owner or lessee of any parking lot or space open to the public.

D. Permit holder is required to fence or otherwise contain the area in which the alcohol is consumed, and provide measures for ensuring that alcohol will not be available for purchase or consumption by persons under the age of twenty one. For purposes of this section, a roped area is not considered an adequate barrier.

E. The individual or group in whose name the permit is issued shall be responsible for having the permit present at the site as well as any applicable state permits, informing and supervising others with respect to the compliance with city ordinances and state law, the safety, sobriety, conduct and behavior of each member of the group.

F. All state and local liquor control regulations have been complied with by the applicant and proof of all applicable state and local liquor permits must be provided.

G. The person or organization must provide proof of general liability insurance and liquor liability insurance in the minimum amount of one million dollars coverage per occurrence, and must indemnify and hold the City harmless for any and all liability arising out of the reserve use of such facility.

**9.20.070 Conditions for Permit for Alcohol – Civic Center use.** A. An applicant wishing to use the Civic Center facilities for an event which involves the consumption or possession of, but not the sale of, alcohol shall provide with their application for reservation notification of the intent to have alcohol at their event as well as pay a damage deposit in the amount specified in the rental contract. The deposit may not be returned until at least ten days after the conclusion of the event and the City Manager or his designee may deduct for any reasonable city expense for cleaning up litter and/or repairing or replacing damaged or destroyed property within the Civic Center or immediate area.

B. An applicant wishing to use the Civic Center facilities for a function which involves the sale of alcohol as part of their event must first apply for a permit under the same conditions as those uses authorized under Section 9.20.060.

**9.20.080 Violation--Penalty.** Any person violating any of the provisions of this chapter is guilty of a misdemeanor and upon conviction thereof shall be fined a sum not exceeding five hundred dollars, or by imprisonment for a term not exceeding six months, or by both such fine and imprisonment. (Ord. 2342 '2(part), 1983).