

ORDINANCE 3044

**AN ORDINANCE AMENDING OCCGF TITLE 9, ADDING
CHAPTER 10, PERTAINING TO SOCIAL HOST**

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

Section 1: That OCCGF Title 9, Chapter 10, Sections 010 thru 040, be created as depicted in Exhibit A.

Section 2: This Ordinance shall be in full force and effect thirty (30) days after its passage and adoption by the City Commission.

APPROVED by the City Commission of the City of Great Falls, Montana, on first reading August 4, 2009.

PASSED, APPROVED AND ADOPTED by the City Commission of the City of Great Falls, Montana, as amended on second reading September 15, 2009.

Dona R. Stebbins, Mayor

ATTEST:

Lisa Kunz, City Clerk

(Seal of the City)

APPROVED FOR LEGAL CONTENT:

Chad Parker, Acting City Attorney

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

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that I did post, as required by law and as prescribed and directed by the City Commission, Ordinance 3044 in three 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

(Seal of the City)

Lisa Kunz, City Clerk

Ordinance 3044-Exhibit A
Chapter 10
SOCIAL HOST

Sections:

9.10.010	Purpose, Findings
9.10.020	Definitions
9.10.030	Prohibited Acts
9.10.040	Penalties

9.10.010 Purpose, Findings

Consumption of alcoholic beverages by minors at parties, or gatherings where minors consume alcoholic beverages, present numerous problems for the City of Great Falls, Montana, minors, and law enforcement. Specifically:

- Montana teens report one of the highest binge drinking (heavy episodic - defined as 5 or more drinks in one sitting) rates in the nation, 34.4 percent of Montana Youth admit to binge drinking episodes. This is the highest in the United States.
- Great Falls' teens report a higher binge drinking rate than the Montana average. In Cascade County, 38.9 percent of youth admit to binge drinking. This is one of the highest rates in the state.
- In Great Falls, the Municipal Court, the Youth Court, the Great Falls Police Department, and the Cascade County Sheriff's Office have dealt with or issued 2,066 Minor in Possession of Alcohol violations in the City of Great Falls since January 1, 2006. Due to alcohol abuse problems, in 2005 alone, 6,689 persons were admitted to alcohol treatment programs in Montana.
- The Great Falls Police Department has expended countless man-hours and countless resources on enforcement of underage drinking laws which has detracted from their ability to tend to violent crime and other necessary law enforcement activities. Recent reports state that Montana spends an average of 49.1 million dollars annually on alcohol related criminal offenses.
- Due to the severity of the problem in Cascade County, and especially the City of Great Falls, the Great Falls Police Department has written a grant for and received over \$1,000,000.00 in federal grant funds to be used solely for combating underage drinking and alcohol related crimes in the community. Despite this funding and the efforts of law enforcement and community groups, the problem of underage drinking in Great Falls continues to grow.

Alcohol abuse is also linked to numerous other health and life issues for our youth, including, but certainly not limited to, sexual assault, unprotected sexual activity, teenage pregnancy, sexually transmitted diseases, physical assault, and academic difficulties.

The Commissioners of the City of Great Falls, Montana, find and declare that the purpose of the ordinance is:

- 1) to protect public health, safety, and general welfare;
- 2) to enforce laws prohibiting the consumption of alcohol by minors;
- 3) to reduce the cost of providing police services to parties, gatherings, or events that call for a response by requiring that social hosts ensure minors are not consuming alcoholic beverages; and, under Montana Code Annotated §§ 7-1-4123 and 7-1-4124, the City of Great Falls has the legislative power, subject to the provisions of state law, to adopt, amend, and repeal ordinances and resolutions required to:
 - a) preserve the peace and order and secure freedom from dangerous and noxious activities; and,
 - b) secure and promote the general public health and welfare.

Further, Montana Code Annotated § 7-32-4302 provides, in pertinent part, that the City of Great Falls has the power to prevent and punish intoxication, loud noises, disorderly conduct, and acts or conduct calculated to disturb the public peace or which are offensive to public morals within its limits.

9.10.020 Definitions

- (1) "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.
- (2) "Alcoholic Beverage" means a compound produced and sold for human consumption as a drink that contains more than 0.5% of alcohol by volume; the term also includes, but is not limited to, Beer, Hard Cider, Liquor, Malt Beverage, Table Wine, and Wine.
- (3) "Beer" means a malt beverage containing not more than 7% of alcohol by weight.
- (4) "Gathering" means a party or event where a group of three or more persons has assembled or is assembling for a social occasion or social activity.
- (5) "Hard cider" means an alcoholic beverage that is made from the alcoholic fermentation of the juices of apples or pears and that contains not less than 0.5% alcohol by volume and not more than 6.9% alcohol by volume, including but not limited to flavored, sparkling, or carbonated cider.
- (6) "Liquor" means an alcoholic beverage except beer and table wine.
- (7) "Malt beverage" means an alcoholic beverage made by the fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or their parts or their products and with or without other malted cereals and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared from carbohydrates and with or without other wholesome products suitable for human food consumption.
- (8) "Table wine" means wine that contains not more than 16% alcohol by volume and includes cider.
- (9) "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 as wine in accordance with federal regulations are also wine.
- (10) "City" means:
 - (a) the area within the incorporated city boundaries of the City of Great Falls.
- (11) "Immediate family" means a spouse, dependent child or children, or dependent parents.
- (12) "Person" means any individual, business association, partnership, corporation, or other legal entity and an individual acting or purporting to act for or on behalf of a joint-stock company, unincorporated association or society, or other corporation of any character whatsoever as defined in Montana Code Annotated §§ 45-2-101 and 27-8-104.
- (13) "Parent" means any person having legal custody of a juvenile, including a natural parent, adoptive parent, step-parent, legal guardian, person to whom a court order has given temporary or permanent legal custody.
- (14) "Premises" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, hall or meeting room, park, pavilion, 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, gathering, or other social function, and whether owned, leased, rented, or used with or without permission or compensation.
- (15) "Social Host" means any person who conducts, allows, organizes, supervises, controls, permits or aids another in conducting, allowing, organizing, supervising, controlling, or permitting a party, event, or gathering. The term shall include, but is not limited to the following:
 - (a) Any person or persons who own, rent, lease, or otherwise control the premises where an event, a gathering, activity, or party takes place;
 - (b) The person or persons in charge of or responsible for the premises;
 - (c) The person or persons who organized the activity, event, gathering, or party.The term shall not include a property owner or parent who does not have knowledge that the activity, event, gathering, or party, whether or not the activity, event, gathering, or party was permitted or allowed, would result in an underage person being in possession of or consuming an alcoholic beverage.
- (16) "Underage Person" means any person younger than 21 years of age.
- (17) "Emergency Responders" means law enforcement officers, firefighters, emergency medical service personnel, and any other person having emergency response duties.
- (18) "Enforcement Services or Response Costs" means the monetary cost of salaries and benefits of emergency responders for the amount of time spent responding to or remaining at an event, gathering or party and administrative costs attributable to the incident; the 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 or vehicle.

9.10.030 Prohibited Acts

(1) A person violates this chapter when, as a social host, a person knows or reasonably should have known that an underage person is in possession of, is consuming, or has consumed, an alcoholic beverage on a premises within the City and fails to take reasonable steps, including, but not limited to, notifying law enforcement to prevent the underage consumption or possession by the underage person. The social host does not have to be present or on the premises at the time the prohibited act occurs.

(2) Nothing in this chapter shall be construed to supersede the prohibitions or exceptions set forth in § 16-6-305, MCA.

9.10.040 Penalties

(1) A person convicted of violating this chapter shall be guilty of a criminal misdemeanor and shall be punished as follows:

(a) for the first offense, shall be fined not less than \$250 or more than \$500, plus court costs;

(b) for the second or subsequent offense, shall be fined \$500, plus court costs, and imprisoned for not more than 6 months, except that if one or more underage persons found to have been in possession of or consumed an alcoholic beverage was 16 years of age or under, the person convicted of violating this chapter shall be punished by imprisonment of not less than 5 days, which may not be served on home arrest.

(2) The imposition or execution of the first 2 days of any sentence of jail may not be suspended and the court may not defer imposition of sentence.

(3) Notwithstanding the penalties listed above, a person convicted of violating this chapter shall be responsible for reimbursing the cost of enforcement services or response costs to the agencies furnishing emergency responders. Any claims for restitution, including, but not limited to, those for enforcement services or response costs, must be filed with the Court within 90 days of a conviction under this chapter.

(4) A prosecution for violation of this chapter may not be deferred.