

ORDINANCE NO. _____

AN ORDINANCE OF THE LIBBY CITY COUNCIL AMENDING LIBBY MUNICIPAL CODE TITLE 9 CHAPTER 56 ENTITLED "PUBLIC CONSUMPTION OF LIQUOR AND INTOXICATION" TO ALLOW FOR BROADER CONTROL OF PUBLIC ALCOHOL USE.

BE IT ORDAINED BY THE LIBBY CITY COUNCIL THAT MUNICIPAL CODE TITLE 9 CHAPTER 56, BE AMENDED AS FOLLOWS:

Chapter 9.56

PUBLIC CONSUMPTION OF LIQUOR AND INTOXICATION

SECTION 1

9.56.010 Open container in public prohibited

Definitions:

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- A. "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.
- B. "Alcoholic beverage" means a compound produced and sold for human consumption as a drink that contains more than one-half percent of alcohol by volume.
- 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. 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 a 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 places" means all sidewalks, streets, avenues, alleys, 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 of and adjacent to the licensed building and to which patrons are permitted free access from the building

SECTION 2

9.56.020 Unlawful within city limits.

Public drinking and public display and exhibition of alcoholic beverages as defined in this chapter are prohibited, and it is unlawful for any person to engage in public drinking, public display or exhibition of alcoholic beverages within the city limits.

SECTION 3

9.56.030 Exception.

Any organization desiring to serve beer, wine or liquor upon a public place as defined in this chapter as part of a promotion celebration or other organized activity may obtain a permit from the city administrator to use the public place for one day. Issuance of this permit shall occur only after the use of the public place has been approved by the fire chief and police chief. The organization must take all necessary precautions to keep minors from obtaining alcohol including, but not limited to, temporary fencing and identification checks. Any applicant for a permit shall post a damage and litter deposit or bond pursuant to resolution of the City Council which will be refundable if after the use has occurred all litter associated with the permitted use has been picked up and there has been no damage to the public place as a result of the permitted use.

SECTION 4

Statutory Interpretation and Repealer:

Repealing any and all resolutions, ordinances and sections of the Libby Municipal Code and parts thereof in conflict herewith are hereby repealed.

SECTION 5

Severability:

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by a court having competent jurisdiction, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

SECTION 6

Savings Provision:

This ordinance does not affect the rights or duties that mature, penalties and assessments that were incurred or proceedings that began before the effective date of this ordinance.

SECTION 7

This ordinance will become effective 30 days after the second reading and final adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF LIBBY, MONTANA, THIS _____ DAY OF _____ 2014.

Doug Roll, Mayor

ATTEST:

Glena Hook, City Clerk