

ORDINANCE NO. 02-5204

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SUBSECTION (a) OF SECTION 27-612 OF SAID CODE; PROVIDING THAT BARS, TAVERNS, LOUNGES AND SIMILAR ESTABLISHMENTS IN THE CENTRAL BUSINESS DISTRICT BE EXEMPT FROM THE REQUIRED 600 FOOT SEPARATION FROM CHURCHES, SCHOOLS OR PUBLIC PARKS; AND, ALLOWING THE GOVERNING BODY TO WAIVE THE 600 FOOT SEPARATION IF AN ACCEPTABLE PHYSICAL BARRIER EXISTS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Section 1. That subsection (a) of Section 27-612 of the Billings, Montana, City Code be amended so that such subsection shall read as follows:

“Sec. 27-612. Supplemental Commercial Development Standards.

(a) *Bars, taverns and lounges.* Any person desiring to use any premises or to erect, construct or alter any new or existing building or structure for use as a bar, tavern, lounge or any commercial establishment which serves alcoholic beverages as a primary or accessory use shall first make application for special review as regulated in BMCC sections 27-1503 and 27-1509. No building, structure or premises shall be used for retail alcoholic beverage sales unless:

(1) A distance of six hundred (600) feet between property lines, measured in a straight line, is maintained from any ~~school, playground, public park, public recreation area, churches or other public buildings~~ building that is predominantly used as a church or school or from a public park that contains a children's playground or playfield.

~~Exceptions to the terms of above subsection (1) may be granted by the Governing Body during the Special Review process when it is found that the strict application of the provisions of this section may result in undue hardship, and that the granting of such exception shall be in the public interest.~~

(A) Properties or establishments which are located in the Central Business District zoning district are exempt from subsection (1).

(B) Properties may be granted a waiver from the 600 foot separation required in subsection (1) if the Governing Body finds that a physical barrier exists between the proposed use and the use requiring the 600

foot separation. These barriers include, but are not limited to, the following:

1. An arterial street with no existing or proposed signalized pedestrian crossing;
2. A building or buildings that entirely obstruct the view between the separated uses; and/or
3. No direct physical access exists between the separated uses.

The person applying for the Special Review must provide the Governing Body with proof that the proposed property or establishment meets one of the above described physical barriers or that other types of physical barriers exist that warrant the waiving of the 600 foot separation.

Exemptions to above subsection (a) for establishments previously granted a special review are located in BMCC Section 27-613."

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this 28th day of May, 2002.

PASSED, ADOPTED and APPROVED on second reading this 10th day of June, 2002.

CITY OF BILLINGS

By _____
Charles F. Tooley, Mayor

ATTEST:

ORD. 02-5204

By _____
Marita Herold, CMC City Clerk