

TITLE IX

PUBLIC PEACE, MORAL AND WELFARE

PUBLIC PEACE, MORALS AND WELFARE

Chapters:

- 9.01 Offenses by or against public officers and government
- 9.02 Offenses against the public decency – Park Rules
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CHAPTER 9.01

OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT

Sections:

9.01.10	Arrest Jurisdiction
9.01.20	Resisting or obstructing public officer
9.01.30	False alarm prohibited
9.01.40	Interference with fire alarm system
9.01.50	Interference with fire alarm system
9.01.60	Malicious prosecution
9.01.61	Penalty

9.01.10 Arrest Jurisdiction Pursuant to 7-32-4301 MCA, the arrest jurisdiction of the Town of Browning Police is extended within the five – mile perimeter of the boundaries of the Town.

9.01.20 Resisting or obstructing public officer. No person shall resist, delay, obstruct or intimidate any official or employee of the municipality in the performance of his or her official duty.

9.01.30 False alarm prohibited It is unlawful for any person to file, call in or in any way report or cause to be report or cause to be reported a false fire alarm to the fire department, to any member of the fire department or to any officer of the municipality.

9.01.40 Interference with fire alarm system. No person shall use the public fire alarm except when an alarm of fire is given or with the permission of the fire chief or assistant chief of the department, nor shall any person injure, in any way, any of the fire alarm boxes, bells, poles, wires or other appliances connected with the public fire alarm system of the municipality.

9.01.50 Hindering fire fighting operations. A. No person shall willfully interfere with or hinder any municipal officer of fireman in the performance of his duty at, going to, or returning from any fire or while such officer or fireman is attending to his duties as a member of the fire department.
B. No person shall willfully or negligently drive any motor vehicle, locomotive, train of cars or other vehicles across, along or upon any hosed used for fire fighting purposes.

9.01.60 Malicious prosecution. When any person has been arrested and brought to trial for the alleged violation of any provision of this code or any other ordinance of the Town and it shall appear to the presiding magistrate of the police court that the prosecutor or complaining witness has made complaint maliciously and without probable cause judgment shall be rendered against the prosecutor or complaining witness

for costs; and the court may issue execution to recover the same, as judgment for debit. Whenever the police judge or magistrate of the court shall have reason to believe that any complainant is actuated by malice in making complaint said judge before issuing process may require the complainant to deposit a sum sufficient to secure the probable costs.

9.01.70 Penalty. Any person violating a provision of this chapter for which another penalty has not been provided shall upon conviction thereof be punished as set forth in Section 1.16.020.

CHAPTER 9.02

OFFENSES AGAINST PUBLIC DECENCY – PARK RULES

Sections:

9.02.10 Park rules and regulations

- 9.02.10 Park rules and regulations** It is unlawful for any person to violate any of the following rules and regulations while within the City park:
- A. Park is closed to vehicles and people from dusk to daylight;
 - B. Motorized vehicles may not be operated in the park;
 - C. Parking in front of or within a designated entry or driveway which hinders the use of the park property is prohibited;
 - D. Destruction, defacement or dismantling of any park equipment; park furnishings; trees, flowers or other planting and facilities on park property is prohibited;
 - E. Active games around designated flower/shrub beds or young trees is prohibited.
 - 1. Practicing or playing golf is prohibited
 - 2. Snowmobiling on or within the park is prohibited
 - F. Organized athletic activities or group functions are allowed;
 - G. Littering or dumping debris on or within the park is prohibited;
 - H. No erection, construction or maintenance shall be made above or below ground, across or beneath park land without permission from the Mayor or City manager;
 - I. Selling, advertising or solicitation of products/services within the park is allowed;
 - J. All pets must be on a leash and shall be restricted to sidewalks;
 - K. Large animals such as horses, cows and mules, which may damage the turf are prohibited;
 - L. Discharging, possession of or selling of fireworks is prohibited;
 - M. Use of park land other than its intended use must be approved in writing by the Mayor or City Manger;
 - N. Except as provided in _____, public drinking and public display and exhibition of beer, wine or liquor are prohibited.

CHAPTER 9.03

DISPLAY OR DISSEMINATION OF OBSCENE MATERIAL TO MINORS

Sections:

9.03.10	Definitions
9.03.20	Offenses
9.03.30	Defenses
9.03.40	Penalties
9.03.50	Severability

- 9.03.10 Definitions.** The following definitions apply in this chapter:
- A. "Harmful to minors" means that quality of any description, exhibition, presentation or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when the material or performance, taken as a whole, has the following characteristics:
1. The average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest in sex to minors; and
 2. The average adult person applying contemporary community standards would find that the material or performance depicts or describes nudity, sexual conduct, sexual excitement or sadomasochistic abuse in a manner that is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors; and
 3. The material or performance lacks serious literary, scientific, artistic, or political value for minors.
- B. "Knowingly" means having general knowledge of:
1. The character and content of any material or performance which is reasonably susceptible of examination by the defendant; and
 2. The age of the minor; however, an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.
- C. "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, recording tape, or video tape.
- D. "Minor" means any unmarried person under the age of eighteen years.
- E. "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a full opaque covering; the showing of the female breast with less

than a full opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernible turgid state.

F. "Performance" means any motion picture film, video tape, played record, phonograph or tape, preview, trailer, play, show, skit, dance, or other exhibition performed or presented to or before an audience of one or more, with or without consideration.

G. "Person" means any individual, partnership, association, corporation, or other legal entity of any kind.

H. "Prurient" means a lustful, lascivious, erotic, shameful, or morbid interest in sexual conduct, sexually explicit nudity, sadomasochistic sexual abuse, or lewd exhibition of the genitals. Materials or performances may be deemed to appeal to the prurient interest when they are pandered, designed, marketed, prompted, or disseminated to cater or appeal to such an interest. Where the material or performance is designed for and primarily disseminated or promoted to a clearly defined, deviant sexual group, rather than the public at large, the prurient - appeal requirement is satisfied if the dominant theme of the material or performance, taken as a whole, appeals to the prurient interest in sex of the members to that intended and probable recipient group.

I. "Sadomasochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

J. "Sexual conduct" means acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person be a female, breast.

K. "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

L. "A reasonable bona fide attempt" means an attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, birth certificate or other governmental or educational identification card or paper and not relying solely on the oral allegations or apparent age of the minor.

9.03.20 Offenses. A. No person having custody, control or supervision of any commercial establishment shall knowingly:

1. Display material which is harmful to minors in such a way that minors, as a part of the invited general public, will be exposed to view such material provided; however, a person shall be deemed not to have "displayed" material harmful to minors if the material is kept behind the counter or is otherwise located so that it is not accessible nor more than the title portion of the material is visible to minors;

2. Sell, furnish, present, distribute, allow to view, or otherwise disseminate to a minor, with or without consideration, any material which is harmful to minors; or
3. Present to a minor or participate in presenting to a minor, with or without consideration, any performance which is harmful to a minor.

9.03.30 Defenses. It shall be an affirmative defense to any prosecution under this chapter that:

A. The material or performance involved was displayed, presented or disseminated to a minor at a recognized and established school, church, museum, licensed medical clinic, hospital, public library, governmental agency, quasi-governmental agency and person acting in their capacity as employees or agents of such persons or organizations, and which institution displays, presents or disseminates such material or performance for a bona fide governmental, educational or scientific purpose.

9.03.40 Penalties. A. Any person who shall be convicted of violating any provision of this chapter is guilty of a misdemeanor and shall be fined a sum not less than five (\$500.00) hundred dollars or more than one (\$1000.00) thousand dollars or imprisoned in jail for a term not to exceed six months or both. Each day that any violation of this section occurs or continues shall constitute a separate offense and shall be punishable as a separate violation. Every act, thing, or transaction prohibited by this section shall constitute a separate offense as to each item, issue or title involved and shall be punishable as such. For the purpose of this section, multiple copies of the same identical title, monthly issue, volume and number issue or other such identical material shall constitute a single offense.

9.03.50 Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions thereof. The declares that it would have passed this chapter, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

CHAPTER 9.04

OFFENSES AGAINST PUBLIC PEACE

Sections:

9.04.10	Definitions
9.04.20	Intoxication unlawful within City limits
9.04.30	Exception – Public facilities
9.04.35	Under age possession
9.04.37	Contributing
9.04.40	Disturbing the peace
9.04.50	Disorderly houses
9.04.60	Riot
9.04.70	Prohibiting rioting
9.04.80	Remaining present at place of riot
9.04.90	Disturbing meetings
9.04.100	Vagrancy
9.04.110	Penalty

9.04.10 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. "Intoxicating quantity" means a quantity of an alcoholic beverage that is sufficient to produce:

1. A blood, breath or urine alcohol concentration in excess of 0.05; or
2. Substantial or visible mental or physical impairment.

D. "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.

E. "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.

F. "Public places" means all vehicles, 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 and adjacent to the license building and to which patrons are permitted free access from said building.

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

H. "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.

9.04.20 Unlawful within City limits. A. Except as provided in subsection A of Section 9.20.30, 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.

9.04.30 Exception--Public facilities. A. A 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 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 Town 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 Town will be held harmless for any liability.

9.04.35 Under age possession. Any person who shall not have reached the age of 21 years and who shall have in his or her possession beer, wine or liquor within the city limits or the Town as now or hereinafter established shall be punished by imprisonment in jail for not more than thirty (30) days or by a fine of not more than five (\$500.00) hundred dollars or by both such fine and imprisonment.

9.04.37 Contributing. Except in the case of beer, wine or liquor given in a non-intoxicating quantity to a person under the age of 21 years by his parents or guardian, physician or dentist for medicinal purposes, a licensed pharmacist upon the prescription of a physician, or an ordained minister or priest in connection with a religious observance a person may not sell, or otherwise provide an alcoholic beverage to a person under 21 years of age.

9.04.40 Disturbing the peace. No person within the Town limits shall willfully and maliciously disturb the peace and quiet of any street, neighborhood, family or person by loud, tumultuous noise, or by tumultuous or offensive conduct or by using offensively loud radio or television sets or by threatening, quarreling, scolding, hallooing, hollering, challenging, to fight, or fighting, or by cursing, swearing, uttering obscene, profane, vulgar or indecent language in the presence of any person (s) or committing any obscene vulgar, indecent, or lewd act in any public place or in view of any person or persons.

9.04.50 Disorderly houses. No person (s) shall conduct, maintain or keep any disorderly house. For the purposes of this section a disorderly house is any house, room, tent or other structure or place of abode in which people live or abide or to which they resort, which is so maintained as to cause disturbance and annoyance or offense to the neighborhood or passerby, or which is used for purposes which they are injurious to the public peace, quietness, safety, health, morals and convenience or in which prostitution is practiced or which is habitually used for purposes of assignation and/or prostitution or is the resort of criminals, drunkards, vagrants, or other idle, dissolute or immoral person, or to which person resort for the purpose of concocting or planning crimes or misdemeanors, or other offenses against the public peace, health, safety, moral and good order.

9.04.60 Riot. Any use of force or violence in a public place, disturbing the public peace, or any threats in a public place to use force or violence if more persons acting together and without authority or law is a riot.

9.04.70 Prohibition of rioting. No person shall participate within the Town in any riot.

9.04.80 Remaining present at place of riot. No person shall remain present at the place of any riot within the Town after the riot and rioters have been

lawfully warned to disperse, except public officers and person assisting public officers in attempting to disperse the same.

9.04.90 Disturbing meetings. No person shall at any time willfully and wantonly disturb any lawful meeting or assembly by noise, rude, offensive or improper behavior or language of any kind or otherwise or at all.

9.04.100 Vagrancy. The following persons shall be deemed guilty of committing the crime of vagrancy;

- A. Every person begging food, money, drinks, lodging, or other things or soliciting charity for himself or dependents;
- B. Every person who lodges in or about any market place, shed, railroad car, outhouse, school, bar, cocktail lounge, or any other place of business or structure within the Town without the permission of the owner or party entitled to possession thereof;
- C. Every person who lives upon the earnings of any prostitute;
- D. Every known prostitute, professional gambler, common drunk, or any person who by his/her acts in public, exhibits immorality or licentious conduct;
- E. Every person who annoys or molests any child; (MCA 7-32-4304)
- F. Every person without visible means of living who has the physical ability to work and does not seek employment or labor.

9.04.110 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 (\$500.00) hundred dollars or by imprisonment for a term not exceeding six (6) months or by both such fine and imprisonment.

CHAPTER 9.05

OFFENSES AGAINST PROPERTY – SMOKING

Sections:

9.05.10	Negligent smoking so as to endanger property prohibited
9.05.20	Notice – Posting
9.05.30	Posting of Advertising matter
9.05.40	Damage to public property
9.05.50	Utility poles and fixtures
9.05.60	Damage to shrubs, trees, grass, flowers
9.05.70	Penalty.

9.05.10 Negligent smoking so as to endanger property prohibited. Any person who by smoking or attempting to light or to smoke cigarettes, cigars, pipes or tobacco in any manner in which lighters or matches are employed who in any careless, negligent or reckless manner whatsoever, whether willfully or wantonly or not, sets fire to any building, furniture, curtain, drapes, house or any household fittings, or furnishings whatsoever so as to endanger life or property in any way or to any extent is guilty of violating this chapter.

9.05.20 Notice--Posting. A plainly printed notice shall be posted in a conspicuous place in each sleeping room of all hotels, rooming houses, lodging houses and other places of public abode, advising tenants of the provisions of this chapter and the penalty therefore.

9.05.30 Unlawful where. It is unlawful for any person, firm or corporation to tack, nail or otherwise attach any placard, poster, picture, printed matter or any type of literature or advertising to any public utility poles, or to any Town property, including but not limited to trees, shrubs, fixtures, or structures of the Town, within the Town limits.

9.05.40 Damage to public property. No person shall willfully and maliciously break, cut, tear down, destroy or in any manner injure any motor vehicle, trailer, fire plug, machinery, hose, tool, utensil, or other property of any kind, belonging to or connected with the fire department of the Town or any jail, door, furniture, fixture or other property of any kind belonging to the Town or any department thereof or any public building or any private building or fence.

9.05.50 Utility poles and fixtures. No person shall interfere with, cut remove, break or destroy any telephone or electric light wires, poles or fixtures.

9.05.60 Damage to shrubs, trees, grass and flowers. It shall be unlawful for any person to, in any way, injure or destroy grass, trees, shrubs or flowers

growing upon any public grounds or anything placed in such places of a useful or ornamental character.

9.05.70 Penalty. Any person violating a provision of this chapter for which another penalty has not been provided shall upon conviction thereof be punished as set forth in Section 1.16.020.

CHAPTER 9.07

OFFENSES BY OR AGAINST MINORS – CURFEW

Sections :

9.07.10	Established.
9.07.20	Hours designated--Generally.
9.07.30	Hours designated.
9.07.40	Penalty

9.07.10 Established. It is unlawful for any minor under the age of eighteen years to remain away from home at late and unusual hours of the nighttime, unless in the company of the parent, guardian or other responsible adult companion.

9.07.20 Hours designated--Generally. Subject to the provisions of Section 9.07.10 and to serve as a guide for parents and minors in observing this chapter, the hours set out in Section 9.07.30 shall be presumed late and unreasonable and any arrest based thereon shall be lawful.

9.07.30 Hours designated. A. It is unlawful for a person less than eighteen years of age to be present at or upon any public assembly, building, place, street or highway at the following times unless accompanied and supervised by a parent, legal guardian or other responsible adult companion at least eighteen years of age approved by a parent or legal guardian or unless engaged in a business or occupation which the laws of this state authorize a person less than eighteen years of age to perform:

1. Between 11:01 p.m. Friday and six a.m. Saturday;
2. Between 11:01 p.m. Saturday and six a.m. Sunday; and
3. Between 10:01 p.m. and 6:00 a.m. on Sunday to Thursday, inclusive.

During the "Summer Vacation" the students of Browning school district No. 9 the weekday hours, 9.07.30 (3) are extended 1-hour on the p.m. side of the designated hours for Sunday to Thursday.

B. It is unlawful for a parent, legal guardian or other adult person to knowingly permit a minor under the age of eighteen in their custody or control to violate subsection (A) of this section, and such violation shall constitute a misdemeanor.

C. Any minor under the age of eighteen years who is apprehended for a violation of this chapter shall be dealt with in accordance with the provisions of Title 41, Chapter 5, Montana Codes Annotated, concerning juvenile courts and proceedings against juvenile delinquents.

9.07.40 Penalty. Any parent, relative, guardian, or other person in charge of any minor person as described above who knowingly permits the violation of any of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall

be punished by a fine of not less than five (\$5.00) dollars and not more than five (\$500.00) hundred dollars and/or six (6) months in jail.

That the owner, operator or person in charge of any place of business in the Town open to the public who shall permit any minor child not accompanied by parent or guardian to linger or loiter in such place of business after curfew hour shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not exceeding the sum of fifty (\$50.00) dollars or twenty five (25) days in the Town jail or by both such fine and imprisonment.

CHAPTER 9.08

WEAPONS

Sections:

- 9.08.10 Weapons – Use prohibited
- 9.08.20 Prohibiting and suppressing the possession of weapons

9.08.10 Weapons – Use prohibited It is unlawful for any person to discharge or cause to be or cause to be discharged, any weapon, be it a pellet or b-b projectile, either compressed air or gas operated, cross bow or bow, slingshot or wrist rocket unless it is discharged in a reasonable and responsible manner or at an indoor or outdoor range approved by the City Manager, within the corporate limits of the Town of Browning.

9.08.20 Prohibiting and suppressing the possession of weapons. A. The carrying of concealed or unconcealed weapons (MCA 45-8-328), and as such statute may hereafter be amended) to, on, or at a public assembly, publicly owned building, park under City jurisdiction, or school is hereby prohibited.

B. Exceptions are as otherwise provided by MCA 45-8-351(2)(b) which allows for display of firearms at shows or other public occasions by collectors and others, and MCA 45-8-317 which states what persons are allowed to carry weapons, and as such statutes may hereafter be amended.

CHAPTER 9.09

FIRE WORKS

Sections :

9.09.10	Selling
9.09.20	Purchasing
9.09.30	Discharging dates.
9.09.40	Permissible, banned fireworks.
9.09.50	Possession illegal.
9.09.60	Enforcement.
9.09.70	Public Displays.
9.09.80	City park - ban.
9.09.90	Penalty

9.09.10 **Selling.** The selling of fireworks is prohibited within the limits of Town.

9.09.20 **Purchasing.** The purchasing of fireworks within the limits of Town is prohibited.

9.09.30 **Discharging dates.** The discharging of fireworks will be limited to fourteen (14) days from June 21st through midnight on July 4th.

9.09.40 **Permissible and prohibited fireworks.** A. The following type of Class C common fireworks are allowed to be displayed within the Town limits:

1. A cardboard or heavy paper cylindrical tube or cone that:
 - a. produces a shower of color and sparks that reach a maximum of 15 feet;
 - b. may whistle or pop; and
 - c. is not designed to explode or leave the ground;
2. A pyrotechnic wheel device:
 - a. may be attached to a post or tree; and
 - b. contains up to six “driver” units or tubes;
3. Any device that:
 - a. spins, jumps, or emits popping sounds when placed on the ground;
 - b. does not exceed a height of 15 feet when discharged; and
 - c. does not travel laterally more than 10 feet on a smooth surface when discharged;
4. Sparklers under 12 inches in length and do not have a magnesium make-up, glow worms, snakes, party popper, trick noisemakers;
 - a. “Trick noisemakers” include:

1. tube or sphere containing pyrotechnic composition that produces a white or colored smoke as its primary effect when ignited; and
2. device that produces a small report intended to surprise the user, including a:
 - a) “booby trap” which is a small tube with a string protruding from both ends that ignites the friction sensitive composition in the tube when the string is pulled;
 - b) “snapper” which is a small paper-wrapped device containing a minute quantity of explosive composition coated on bits of sand that explodes producing a small report;
 - c) “trick match” which is a kitchen or book match coated with a small quantity of explosive or pyrotechnic composition that produces a small shower of sparks when ignited;
 - d) “cigarette load” which is a small wooden peg coated with a small quantity of explosive composition that produces a small report when the cigarette is ignited;
 - e) “auto burglar alarm” which is a tube that contains pyrotechnic composition that produces a loud whistle and smoke when ignited and may contain a small quantity of explosive to produce a small noise;

5. Certain mortar type aerial devices and multi-shot cakes that are found acceptable by the Fire Chief or authorized representative, would be allowed to be set off within the Town limits.

6. Explosive:

- a. Firecracker, cannon cracker, salutes, cherry bomb or similar explosives;
- b. Aerial type fireworks that use combustible or explosive material and rises more than 15 feet in height;
- c. Fireworks that discharge balls of fire over 15 feet in height;
- d. A tube or cone aerial firework that propels comets shells, saluted, flash shells, or similar devices more than 15 feet in height;
- e. A chaser, whistler, or other devices that darts or travels more than 10 feet laterally on a smooth surface or exceeds 15 feet in height when discharged.

B. The following type of fireworks that are not allowed to be sold or set off within the City limits are:

1. Explosive:

- a. M-80's or greater;

2. Other:

- a. All other classes of fire works other than those listed within this chapter.

C. Fireworks shall not be sold to any person under the age of 12 years, unless accompanied by an adult.

9.09.50 Possession illegal. Possession of fireworks not allowed to be sold or discharged within the Town limits shall be illegal.

9.09.60 Enforcement. A. City Police Officers, City Manager, Mayor, Town designee and Firefighters shall enforce these rules and regulations.

B. Any official charged with enforcing these rules and regulations may;

1. Seize illegal fireworks that are offered for sale, sold, or in the possession of any individual in violations of this chapter; and

C. Any person who violates these rules and regulations shall be guilty of a misdemeanor.

9.09.70 Public Displays. These rules and regulations do not exempt the public display of fireworks by a licensed, bonded Pyrotechnic Operator. Permits from the Fire Department are required to conduct a public fireworks display.

A. "Display Fireworks" means an aerial shell, salute, flash shell, comet, sky battle, mine, and any similar Class C or Class B explosive as defined by the U.S. Department of Transportation in Part 173, Title 49, Code of Federal Regulations. .

9.09.80 City park - ban. All fireworks are banned from all City parks.

9.09.90 Penalty. Any person violating a provision of this chapter for which another penalty has not been provided shall upon conviction thereof be punished as set forth in Section 1.16.020.

CHAPTER 9.10

WIND TURBINES – POLICY

Sections:

- 9.10.10 Definition
- 9.10.20 Wind – powered generators.
- 9.10.30 Penalty

9.10.10 Definitions: “Wind-powered generator” is a device for converting wind energy into electricity.

9.10.20 Wind –powered generators. Wind – powered generators are not allowed within the incorporated city limits of the Town of Browning.

9.10.30 Penalty. Any person violating the provisions of this chapter for which another penalty has not been provided shall upon conviction thereof be punished by a fine of not less than five hundred dollars (\$500.00) and/or imprisonment for a period not to exceed six months. Every day that a violation continues after the first day of violation shall constitute a separate offense. M.C.A. 7-5-4207.

CHAPTER 9.12

FLAMMABLE FUEL AND FUEL STORAGE – POLICY

Sections:

- 9.12.10 Definitions
- 9.12.20 Flammable Fuel and fuel storage – policy
- 9.12.30 Penalty

9.12.10 Definitions

“Establishment” shall mean any room, building or place within the incorporated limits of the Town of Browning.

“Dealer” shall mean any natural person, corporation proprietorship, partnership or any other business organization engaged in the retail or wholesale sale, distribution, storage, transportation or collection of any flammable gas.

“Combustible gas” shall have the same meaning as the definition of flammable gas.

“Container” shall mean any bottle, vessel, tank or other receptacle used for the collection, storage, sale delivery, distribution or transportation of a flammable gas.

“Flammable gas” shall mean any propane, bottled gas, liquefied petroleum gas, or other flammable gaseous material commonly used for domestic or commercial heating or cooking purposes, vehicle propellant, or for industrial purposes.

“Person” shall mean any individual, firm, partnership, unincorporated association, corporation, or municipality and shall include the state of Montana.

“Place of Public Assemble” shall mean any building or portion thereof designed, intended or used for occupation by persons for purposes of entertainment, instruction or amusement and shall include churches.

“School” shall mean any building or portion thereof where persons assemble for purposes of education and shall include public and private schools, academies, colleges and universities.

9.12.20 Flammable Fuel and fuel storage– policy. No person, firm or corporation other than the owner and those authorized by the owner to do so, shall refill, deliver or permit to be delivered or used in any manner any liquefied

petroleum gas container or receptacle for any gas compound or for any other purpose.

- 9.12.30** **Storage of flammable gases.** A. The storage of flammable gas shall be limited to 10 gallons; preferably stored in an unattached garage or shed. Of this 10 gallon total, no more than 5 gallons can be stored in an unattached garage; and absolutely no flammable liquid storage is allowed in basements.
- B. Flammable liquid storage containers shall be of an approved type. Most of these containers are labeled as approved for flammable liquid use, and indicated the standards they are designed to meet (DOT, ASTM, NFPA 30, ect.) Always use approved or original retail containers.
- C. If you decide to store more than 5 gallons of flammable liquids at your home you need at least one 2 ABC rated fire extinguisher, located no closer than 10 feet and no further away than 50 feet away.
- D. Control sources of ignition is mandatory. All transfer and dispensing of flammable liquids required careful attention being paid to eliminating static spark discharge and ignition of flammable vapors. Open flames and high temperature devices must be controlled and approved for use with flammable liquids. And, smoking is prohibited in the storage area.
- E. Flammable and combustible liquids in the fuel tanks of motor vehicles (gasoline, diesel and 2-cycle blends) are exempt and therefore not considered as a part of your total storage quantities.

9.12.40 **Penalty.** Any person violating the provisions of this chapter for which another penalty has not been provided shall upon conviction thereof be punished by a fine of not less than five hundred dollars (\$500.00) and/or imprisonment for a period not to exceed six months. Every day that a violation continues after the first day of violation shall constitute a separate offense. M.C.A. 7-5-4207.

Chapter 9.14 Graffiti

Sections:

9.14.10	Definitions
9.14.20	Spray paint and Broad tipped marker - Policy
9.14.30	Penalty

9.14.10 **Definitions:**

Broad Tipped Marker means any felt tip marker or similar implement containing a fluid that is not water soluble and which has a flat or angled writing surface one-half inch or greater.

³ Etching Acid means any liquid, cream, paste or similar chemical substance that can be used to etch, draw, carve, sketch, engrave or otherwise alter, change or impair the physical integrity of glass or metal.

9.14.20 **Spray paint or broad tipped marker - Policy.**

A. No person shall write, paint or draw any inscription, figure or mark or affix, attach or place by whatever means a sticker or decal of any type on any public or private building or other structure or any other real or personal property owned, operated or maintained by a public benefit corporation, the Town of Browning or any agency or instrumentality thereof or by any person, firm, or corporation, or any personal property maintained on a town street or other town-owned property pursuant to a franchise, concession or revocable consent granted by the town, unless the express permission of the owner or operator of the property has been obtained.

B. No person shall carry an aerosol spray paint can, broad tipped indelible marker or etching acid into any public building or other public facility with the intent to violate the provisions of subdivision A of this section.

C. No person shall sell or offer to sell an aerosol spray paint can, broad tipped indelible marker or etching acid to any person under the age of eighteen years of age.

D. All persons who sell or offer for sale aerosol spray paint cans, broad tipped indelible markers or etching acid shall not place such cans, markers or etching acid on display and may display only facsimiles of such cans, markers or etching acid containing no paint, ink or etching acid.

9.14.30 **Penalty.** Any person who violates the provisions of this section shall be guilty of a misdemeanor punishable by a fine or not more than five hundred dollars (\$500.00) or imprisonment of not more than three (3) months, or both.

B. In addition to the criminal penalties imposed pursuant to section 9.14.30 of this chapter, any person who violates the provisions of this

chapter, by affixing, attaching or placing by whatever means a sticker or decal, in addition to any penalty imposed, shall be responsible for the cost of the removal of the unauthorized stickers, paint markings, marker markings or decals.

C. For the purposes of imposing a criminal fine or civil penalty pursuant to this chapter, every sticker, paint marking, marker marking, or decal affixed, attached or placed by whatever means in violation of section 9.14.20 shall be deemed to be the subject of a separate violation for which a separate criminal fine or civil penalty shall be imposed.