

Robert Shanks

Social Host Ordinance Comments

Commissioners Beecher, Bronson, Jolley, Rosenbaum and Mayor Stebbins,

I am a concerned citizen and an Income Property Owners and Managers Association (IPMs) board member. Concerning the Social Host ordinance being proposed I would recommend it be disapproved for the following reasons:

1. Landlords may be required to violate the "Montana Residential Landlord and Tenant Act of 1977" in order to comply with the proposed Social Host Ordinance. The landlords have their own remedies specific violations of their lease or the Landlord/Tenant Act which are identified in the act – see the handout titled "Landlord Actions for Non-Compliance of the Landlord/Tenant Act" for an example.

2. In general the Landlords are responsible with providing a habitable place for people to live IAW existing laws and the lease between the landlord and the tenant. They are not responsible for policing the tenant's behavior.

3. In general the Tenant is responsible for maintaining the premises in a habitable condition and not interfering with the peace of the surrounding neighbors.

4. It appears that one purpose of the ordinance is to circumvent an existing law. For example, the law(s) that deals with "Contributing to the Delinquency of a Minor".

Here's what I believe would be a much better approach in getting a handle on the underage drinking problem.

1. First establish a program similar to the one that deals with the METH problem.
2. Under the definition for Social Host subparagraph (a), break it into two categories, one for business properties such as rentals units and social gathering places. And another one for private residences where the owner of the property resides as his or her primary residence.
3. The remedies for the above categories need to be treated differently and in a just manner – make the punishment fit the crime.
4. One such remedy is to have the Landlord for rental properties add appropriate language to the lease, prohibiting the tenant from providing alcohol to individuals under the age specified by Montana state law. This should also be reflected in the "Montana Residential Landlord and Tenant Act of 1977" as an update.

Should you have questions concerning these comments please call me at 454-6093 or my cell phone at 788-5507.

Robert Shanks

Landlord Actions for Non-Lease Compliance or the Landlord/Tenant Act

The “Montana Residential landlord and Tenant Act of 1997” paragraph 70-24-321 **Tenant to maintain dwelling unit.** ... (1)(f) Requires tenants to “conduct oneself and require other persons on the premises with the tenant’s consent to conduct themselves in a manner that will not disturb the tenant’s neighbors’ peaceful enjoyment of the premises”.

Obviously, the landlord needs to be notified of any such disturbance.

Paragraph 70-24-422 **Noncompliance of tenant generally – landlord’s right of termination – damages – Injunction.** (1) provides the landlord with remedies for tenants that disturb others. ... “if there is a noncompliance by the tenant with the rental agreement or a noncompliance with 70-24-321, the landlord may deliver a written notice to the tenant pursuant to 70-24-108 specifying the acts and omissions constituting the noncompliance and that the rental agreement will terminate upon a date specified in the notice not less than the minimum number of days after receipt of the notice provided for in this section.”