

**ORDINANCES**  
MILES CITY, MONTANA

**ORDINANCE NO. 1296**

**AN ORDINANCE AMENDING SECTION 22-151 OF THE CODE OF ORDINANCES OF THE CITY OF MILES CITY REGARDING APPLICABILITY OF PENALTIES FOR REFUSING TO SUBMIT TO ALCOHOL/DRUG BREATH AND/OR BLOOD TEST.**

**BE IT ORDAINED**, by the City Council of the City of Miles City, Montana, as follows:

**Section 1.** Section 22-151 shall be amended to read as follows:

**Section 22-151. Refusal to Submit to Alcohol/Drug Breath and/or Blood Test.**

(a) Any person operating or in actual physical control of a motor vehicle while under the influence of alcohol and/or drugs creates a significant risk to public safety, health and general welfare. To help secure public safety, health and general welfare for all persons, the City of Miles City adopts this section in an effort to deter persons from engaging in this dangerous activity. This section is adopted pursuant to Montana Code Annotated 61-12-101 which grants authority and powers to local authorities to regulate the operation of motor vehicles by a person while under the influence of alcohol and/or drugs.

(b) It is unlawful to refuse to submit to a breath or blood test for alcohol and/or drugs, and a warrant may be obtained to collect a sample of the person's blood for testing, pursuant to Montana Code Annotated 61-8-402 and 46-5-224 when the person has either refused to submit to a breath, blood or urine sample in the past, or when the person has a previous DUI conviction. It is unlawful and it constitutes a misdemeanor offense for any person operating or in actual physical control of a motor vehicle suspected of doing so under the influence of alcohol and/or drugs to refuse to submit to one or more tests to detect alcohol and/or drugs requested and designated by any peace officer as defined by Montana State Law. A person may only be charged under this section if a warrant has been obtained for the collection of a blood sample pursuant to Montana Code Annotated 61-8-402 and 46-5-224, and a blood sample has been collected, or was attempted to be collected. Prior to charging a person with a violation of this section, a peace officer must inform the person requested to take the designated breath and/or blood test that refusing the test when the person has refused prior testing, or has a prior DUI conviction, is a misdemeanor offense under Miles City Municipal Code and identify the penalties associated with the offense. If any arrested person refuses to submit to one or more tests requested and designated by a peace officer as provided for pursuant to Montana State Law, the refused test may not be given, unless a warrant has been obtained for the collection of blood. In the event a blood sample is obtained through a warrant, following a person's refusal to submit to the requested tests as set forth in this section, the person may be charged with a misdemeanor offense pursuant to this section.

(c) The Penalties for violations of Section 22-151 are established as follows. Incarceration is not a penalty for a violation of this section. A person convicted under section 22-151 shall be subject to fines of:

1. For a first offense, the fine is \$300.00; no portion may be suspended, waived or deferred by the court; and
2. For a second or subsequent offense, the fine is \$500.00; no portion may be suspended, waived or deferred by the court.

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(d) If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been declared invalid or unconstitutional, and if for any reason this ordinance should be declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

**Section 2.** This Ordinance shall become effective thirty (30) days after its final passage.

Said Ordinance read and put on its passage this 14<sup>th</sup> day of July, 2015.

C.A. Grenz  
C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce  
Lorrie Pearce, City Clerk

**FINALLY PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2015.

C.A. Grenz  
C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce  
Lorrie Pearce, City Clerk





Affidavit of Publication

STATE OF MONTANA }  
County of Custer } ss.

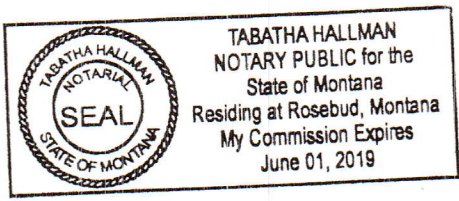
Mary Rose Bovee, being duly sworn on her oath, says  
that she has been the principal clerk of the printer of the  
MILES CITY STAR, a daily newspaper of general  
circulation, printed and published at Miles City, in said  
County and State. **City of Miles City. Ordinance 1296.**  
A printed and true copy which, cut from the columns of  
said newspaper, is hereto attached, and made a part  
hereof, was printed and published in said newspaper, in  
the regular and entire issue of every number of the paper  
during the period and time of publication, on the  
following dates, to-wit: July 3, and 10, 2015.

Signed Mary Rose Bovee

Subscribed and sworn to before me this 6th  
day of July, 2015

Tabatha Hallman

Tabatha Hallman , Notary Public for the state of  
Montana, residing at Rosebud. My Commission Expires  
June 1, 2019.



**LEGAL NOTICE**  
**NOTICE IS HEREBY GIVEN** that the City Council of the City of Miles City at a Regular Council Meeting held on Tuesday, June 23rd, 2015, at 7:00 p.m., passed on first reading the following Ordinance:  
**ORDINANCE NO. 1296:**  
An Ordinance Amending Section 22-151 of The Code of Ordinances Of The City of Miles City Regarding Applicability of Penalties For Refusing to Submit to Alcohol/Drug Breath and/or Blood Test  
The above Ordinance is on file and available for public inspection at the City Clerk's Office at City Hall, 17 S. 8th Street, Miles City, Montana. You are further notified that objections to the final adoption of the Ordinance will be heard by the City Council at its regularly scheduled in the Council Chambers at City Hall, 17 S. 8th Street, Miles City, Montana, on Tuesday July 14th, 2015 at 7:00 p.m. For information or questions you may contact the City Clerk at 234-3462.  
**BY ORDER OF THE CITY COUNCIL**  
Lorrie Pearce  
City Clerk  
(Published July 3 and 10, 2015)  
**MNAXLP**