

# ORDINANCES OF THE CITY OF HELENA, MONTANA

## ORDINANCE NO. 3250

### AN ORDINANCE ESTABLISHING BUSINESS LICENSE REGULATIONS BY ADOPTING CHAPTER 1 OF TITLE 4 OF THE HELENA CITY CODE

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE  
CITY OF HELENA, MONTANA:

That Title 4 of the Helena City Code, Business, is hereby amended by repealing Chapter 1, General Licenses in its entirety, and adopting this new Chapter 1 in lieu thereof:

#### CHAPTER 1

#### BUSINESS LICENSES

##### SECTION:

- 4-1-1: Definitions
- 4-1-2: License Required
- 4-1-3: Responsibilities of the Licensee
- 4-1-4: Application Requirements
- 4-1-5: Renewal Requirements
- 4-1-6: Fees
- 4-1-7: Sale or Transfer
- 4-1-8: Suspension and Revocation
- 4-1-9: Enforcement

**4-1-1: DEFINITIONS:** For purposes of this chapter, the following terms, phrases, words, and their derivations have the meanings given herein. Unless specifically specified, terms have the meanings as defined in Title 11 of this Code.

Commercial Enterprise: Any occupation, vocation, pursuit, trade, industry, profession, or commercial activity of any kind, carried on for purposes of economic benefit or profit or engaged in for livelihood or gain, including direct sales and

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activities conducted as home occupations. This definition does not include the practice of law, nor does it include any business which the Montana legislature has specifically declared that cities with self-governing powers may not regulate. This definition does not include any person because of that person's status as an employee of any unit of government or of any private employer. This definition does not include any nonprofit group or organization which is recognized as a nonprofit group or organization by the United States Internal Revenue Service.

Full-time Equivalent  
Employees:

The number of full-time equivalent employees is determined by dividing the total number of hours worked by all employees of the business, including self-employed persons, in the previous calendar year by two thousand eighty (2,080). The resulting quotient, rounded up to the next whole number, is the number of full-time equivalent employees.

Licensee:

The legal owner of a commercial enterprise licensed pursuant to this chapter.

Alcoholic Beverages  
Seller:

A commercial enterprise that includes the sale of alcoholic beverages as a distributor or directly to consumers, including

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but not limited to, bars, taverns, and general retail establishments.

Pawnbroker:

A commercial enterprise that loans money on the person's own behalf or for another, upon personal property, personal security, pawns, or pledges, or engages in the business of purchasing articles of personal property and reselling or agreeing to resell the articles to the vendors or their assigns at prices agreed on at or before the time of purchase. This definition includes commercial enterprises that buy, sell, or deal in secondhand merchandise, including dealing in such merchandise on consignment. (Ord. 3250, 5-20-2019)

## **4-1-2: LICENSE REQUIRED:**

**A. All Commercial Enterprises Must Be Licensed:** A person conducting, operating, transacting, engaging in, or carry on any commercial enterprise within the city must apply for and obtain a license as provided in this chapter.

### **1. Separate License Required for Each Location of Each Commercial Enterprise:**

- a. Each separate commercial enterprise is required to be licensed separately even if owned by the same owner.
- b. Each location of the commercial enterprise requires a separate license. A separate application must be submitted for each location.

**2. Certain Commercial Enterprises Subject to Additional Requirements:** A commercial enterprise that engages in the following activities as part of its operations is required

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to obtain an additional endorsement, which may be subject to additional application requirements, as determined by the city, and fees as determined by the City Commission, as part of their business license.

- a. Alcoholic Beverages Seller.
- b. Pawnbroker.
- c. Medical Marijuana Dispensary.
- d. Marijuana Grow Operations.
- e. Home Occupation.
- f. Tobacco Retailer.
- g. Casino.

**3. Prohibited Commercial Enterprises Not to Be Licensed:** No provision herein contained may be construed so as to license any commercial enterprise prohibited by any law of the United States or the State of Montana, or by any provision of this code, except that medical marijuana dispensaries and grow operations are permitted.

**4. Exclusions:** The requirements of this chapter do not apply to the following:

- a. Persons or entities with no base of operations in Lewis and Clark County who exclusively deal with and contact licensed businesses only by salesmen, telephone or mail.
- b. Persons under 18 years old.

**B. Licenses are a Privilege:** All licenses issued pursuant to provisions of this code are revocable privileges, and no holder thereof acquires any vested rights therein.

**C. Form of License:** The license issued must be in the form prescribed by the city and must be signed in blank by the Mayor and countersigned by the city finance director when granted. (Ord. 3250, 5-20-2019).

**4-1-3: RESPONSIBILITIES OF THE LICENSEE:**

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**A. Notification Requirements:** The licensee must notify the city within thirty (30) days if any of the information contained within the licensee's initial application has changed. Failure to update the licensee's contact information may result in suspension or revocation of the license as provided for in this chapter.

**B. License to be Displayed:** The license issued pursuant to the provisions of this chapter must be conspicuously displayed in such a manner that a city official may observe the same upon entering the licensee's place of business. If the commercial enterprise operates out of multiple locations, a copy of the business license must be displayed at each location. (Ord. 3250, 5-20-2019)

## **4-1-4: APPLICATION REQUIREMENTS:**

**A. License Requirements:** To obtain a license under this chapter, the legal owner or the legal representative of the commercial enterprise must submit a complete application and pay the non-refundable applicable fee to the city.

## **B. Initial Application Form:**

1. The form of the application must be uniform for all applicants as determined by the city, but must contain the following:

- a. Legal name of the owner of the commercial enterprise to be licensed.
- b. Physical and mailing address of the commercial enterprise. If the commercial enterprise operates out of multiple locations, the physical address of each location, including warehouses, must be listed.
- c. If the commercial enterprise is operated by a separate legal entity, the full name of said legal entity and the entity's registered agent as registered with the Montana Secretary of State.

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- d. Description of the nature of the commercial enterprise in sufficient detail to determine if additional licensure or endorsement is required.
- e. Whether the commercial enterprise is being conducted as a home occupation.
- f. The number of full-time equivalent employees employed by the commercial enterprise.
- g. Affirmation that the commercial enterprise will be conducted in compliance with all applicable federal, state, and local laws, rules, and regulations.
- h. Any other information as may be required for administration of this title.

2. The application form must be signed by the legal owner or the legal representative of the commercial enterprise verifying that all information contained within the application is true and correct.

**C. No license will be issued if arrears are owed to the City:**  
a business license cannot be issued to any person or commercial enterprise if the person, commercial enterprise, or the owner or any officer thereof, owes any arrears to the City.

**D. Initial Application Review Process:**

1. The City has ten (10) business days to review the application and to either approve, deny, or request additional information from the applicant. Requests for additional information must be in writing and state the reason for the request. If additional information is requested, the city has an additional ten (10) business days from receipt of the requested information to either approve or deny the application.

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2. If an application for a license is denied, the denial must be in writing and state the reason for the denial.

3. The applicant may appeal the denial of a license to the City Manager. The appeal must be in writing and clearly state the grounds for appeal. The City Manager has 10 business days from the date of receipt of the appeal request to review the information contained within the application and the written notice of appeal and to issue a decision to either grant or deny the application. The City Manager's decision constitutes the final administrative decision upon the application. (Ord. 3250, 5-20-2019)

## **4-1-5: RENEWAL REQUIREMENTS:**

**A. Term of License:** A license issued pursuant to this chapter is valid from January 1 to December 31 of the year in which the license is issued.

### **B. License to be Renewed Annually:**

1. A license issued pursuant to this title must be renewed annually no later than February 1 of each year.

2. To renew a license, the licensee must submit a renewal application provided by the city and pay the annual license renewal fee.

**C. Renewal Application Form:** The form of the application for renewal must be uniform for all applicants as determined by the finance director.

**D. Penalty for Late Renewal:** A penalty fee will be imposed in the event of any late renewal in the amount as established by the City Commission. The penalty must be paid prior to issuance of any new or renewed license. (Ord. 3250, 5-20-2019)

## **4-1-6: FEES:**

The amount of any fee provided for in this chapter is to be determined by the City Commission. (Ord. 3250, 5-20-2019)

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## **4-1-7: SALE OR TRANSFER:**

A license issued pursuant to this title may be transferred upon sale or transfer of the commercial enterprise for which a license was issued. A request for a license transfer must be submitted to the city using the forms provided along with any applicable processing fees. (Ord. 3250, 5-20-2019)

## **4-1-8: SUSPENSION AND REVOCATION:**

### **A. Definitions:**

Suspension: a temporary suspension of a license for a period less than a year. A suspended license is automatically reinstated upon expiration of the suspension period without any additional action from the licensee.

Revocation: elimination of the licensee's license. Licensee must reapply for a new license upon expiration of the revocation period.

Administrative Record: information and documents considered by the City Manager in making the City Manager's decision.

**B. Grounds for Suspension or Revocation of a License:** The City Manager may suspend or revoke a license issued pursuant to this chapter for the following reasons:

1. Upon clear evidence that the commercial enterprise is operating in violation of federal, state, or local rule, law, or regulation, including violations of building and fire codes.



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2. Upon clear evidence that the license was obtained on false information.
3. Denying entry to city officials conducting an inspection pursuant to Section 4-1-9(A).
4. Failure to notify the city of change in contact information.
5. When suspension or revocation is required by law.
6. Any reason determined to be sufficiently egregious to warrant revocation.

**C. Informal Resolution:** Nothing in this Section prohibits the parties from engaging in informal resolution.

**D. Initial Determination:**

1. The City Manager must notify the licensee, in writing, by certified mail, of the reason for the suspension or revocation of the license and the duration there of. If the reason for the suspension is due to an alleged violation of federal, state, or local rule, law, or regulation, the notice must cite to the rule, law, or regulation in question and recite the facts that support the alleged violation. The notice must also include any supporting documents relied upon by the City Manager.
2. Upon receipt of the notice provided for in Section 1, the licensee has ten (10) business days to provide a written response to the City Manager.
3. After receipt of the licensee's written response the City Manager has ten (10) business day to issue the final decision revoking, suspending, or reinstating the license. The City Manager may request city officials to conduct additional inspections to verify the information contained in the licensee's written response. The licensee must be

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informed of the City Manager's final decision in writing by certified mail.

## **E. Request for Redetermination:**

1. A licensee who has received an adverse final decision from the City Manager may request a redetermination prior to appealing to the City Commission. The request for a redetermination must be made within five (5) business days of the date the final decision is mailed. The request for a redetermination must be in writing and include new or additional information relevant to the issue(s) in dispute. The request must include the new information which the City Manager is to consider.

2. Upon receipt of a request for a redetermination, the City Manager has ten (10) business days in which to consider the request. The City Manager's redetermination decision must be issued in writing and mailed to the licensee by certified mail. The City Manager will only issue one redetermination for each licensee who receives an adverse decision.

## **F. Appeal to the City Commission:**

1. Licensee may appeal the City Manager's final decision or the redetermination decision to the City Commission for reconsideration. Licensee must notify the City Manager, within ten (10) business days from the date of the decision, in writing, if the licensee wishes to appeal the decision.

2. The City Commission must hear the appeal within sixty (60) calendar days of receiving the request for an appeal. The period for the hearing may be extended with the consent of the licensee. The City Commission review will be limited to the administrative record and the testimony of the licensee presented at the hearing. Upon conclusion of the hearing the City Commission may revoke, suspend, reinstate,

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or take any other action with respect to the license as permitted by law.

**G. Final Administrative Decision:**

1. If no appeal is requested, the City Manger's decision constitutes the final administrative decision with respect to the license.

2. If the City Manager's decision is appealed to the City Commission, the City Commission's decision constitutes the final administrative decision.

**H. Effective Date of Revocation:** The suspension or revocation takes effect on the date the final administrative decision is issued and all time lines for redetermination or appeals have passed.

**I. Effect of Revocation:** A licensee whose license has been revoked may not apply for a new license during the revocation period. (Ord. 3250, 5-20-2019)

**4-1-9: ENFORCEMENT**

**A. Commercial Enterprise Subject to Inspection:** City officials may conduct periodic inspection of the commercial enterprise for which a license has been issued to assure compliance with all applicable federal, state, and local laws, rules, and regulations, including compliance with building and fire codes.

**B. Civil Penalty:** Any commercial enterprise found to be operating in violation of this title is subject to a civil penalty in the amount equal to the license fee for each violation and cost of enforcement, including cost of investigation, attorney fees, and court costs. For the purposes of this section, each day of operation in violation of the title constitutes a separate violation. (Ord. 3250, 5-20-2019)

**FIRST PASSED BY THE COMMISSION OF THE CITY OF HELENA,  
MONTANA, THIS 22<sup>ND</sup> DAY OF APRIL 2019.**

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/S/ WILMOT COLLINS  
MAYOR

ATTEST:

/S/ DEBBIE HAVENS  
CITY CLERK

FINALLY PASSED BY THE COMMISSION OF THE CITY OF HELENA,  
MONTANA, THIS 20<sup>TH</sup> DAY OF MAY 2019.

/S/ WILMOT COLLINS  
MAYOR

ATTEST:

/S/ DEBBIE HAVENS  
CITY CLERK