

ORDINANCES OF THE CITY OF HELENA, MONTANA

ORDINANCE NO. 3276

AN ORDINANCE ALLOWING CERTAIN ENCROACHMENTS BY RIGHT BY AMENDING
CHAPTER 13 OF TITLE 7 OF THE HELENA CITY CODE

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

Title 7, Chapter 13, of the Helena City Code is hereby amended
as follows:

7-13-1: **INTENT:** No change.

7-13-2: **PROHIBITIONS:** No change.

7-13-3: **ENCROACHMENTS:**

A. The following encroachments and uses are allowed, without prior approval by the City, on the portion of public the right-of-way that is not needed presently being used for installation of curbs, gutters, sidewalks, street paving, driving surfaces, or any other public purpose. ~~do not constitute a hazard to public use of the right of way, and are not located so as to affect universal accessibility in accordance with the Americans with Disabilities Act.~~

1. Mailboxes installed in compliance with laws and regulations;

2. Postal drop boxes owned by the United States Postal Service;

3. Bicycle racks available for public use;

4. Irrigation systems;

5. Landscaping, including lawn ornamentation, in compliance with this code;

ORDINANCES OF THE CITY OF HELENA, MONTANA

Ord. 3276

6. Retaining walls;

7. Fences;

~~68. Driveways approved by the City Engineer;~~

~~79. Walkways from the curb to the sidewalk;~~

~~8. Retail sale of food products from vehicles legally parked on right-of-way that serve the products on the portion of the right-of-way that is not used for public travel;~~

~~910. Public utility lines, poles, and mains as allowed by right by law;~~

~~1011. Sandwich board signs. Sandwich board signs must be removed from the public right-of-way at the close of business or end of the event each day;~~

12. Awnings and overhangs; and

13. Any portion of a structure, such as foundation, roof eaves, stoops, and stairs, in existence as of December 9, 2019.

~~B. An application for an encroachment permit must be submitted to the City Manager on forms furnished by the City. The application must include a drawing of the location and dimensions of the right-of-way area proposed for the encroachment and the arrangement of objects, fixtures, or portions of structures expected to be located in the right-of-way.~~

Encroachments permitted by this section are subject to the following conditions:

1. Encroachments must comply with all other provisions of the Helena City Code including any applicable Building Code requirements and permits.

2. Encroachments cannot impede the sight distance triangle as specified in Section 7-3-7 of this Code.

ORDINANCES OF THE CITY OF HELENA, MONTANA

Ord. 3276

3. Overhanging encroachments, such as awnings and roof eaves, must be placed at least ten feet (10') above the grade immediately below.
4. Encroachment cannot constitute a hazard to the use of the right-of-way by the public.
5. Encroachment cannot be placed in a way as to constitute an obstacle in violation of local, state, and federal universal accessibility laws, rules, and regulations.

C. ~~The following encroachments and uses are allowed by permit issued by the City Manager:~~

~~1. Objects or fixtures placed upon the right of way that are capable of being removed without damage to adjacent structures, including fences, stoops, stairs, and signs.~~

~~2. Objects, fixtures, or portions of structures extending over right of way, such as awnings, overhangs, and roof eaves that are no less than ten feet (10') above the grade immediately below.~~

Placing an encroachment in the right-of-way as permitted by this section does not grant any property rights in the City's right-of-way to the owner of the encroachment.

D. The City may, without advance notice, perform construction and maintenance activities within the right-of-way. The City is not responsible for any damage to any encroachments present in the right-of-way when performing these activities.

E. Encroachments permitted by this section are subject to removal, at property owner's expense, upon sixty (60) days written notice from the City.

7-13-4: NONEXCLUSIVE RIGHT OF WAY USE:

A. No change.

B. A nonexclusive right-of-way use permit may only be granted for uses that are permitted in the district immediately

ORDINANCES OF THE CITY OF HELENA, MONTANA

Ord. 3276

adjacent to the right-of-way on which the use is taking place.
These uses include:

1. Commercial sale of goods or services, including the retail sale of food products from vehicles legally parked on the right-of-way.

2. through 5. No change.

C. through K. No change.

(Ord. 3107, 3-9-2009; amd. Ord. 3262, 6-24-2019; amd. Ord. 3276, 12-9-2019.)

FIRST PASSED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA,
THIS 18th DAY OF NOVEMBER, 2019.

/S/ WILMOT COLLINS
MAYOR

ATTEST:

/S/ DANNAI CLAYBORN
CLERK OF THE COMMISSION

FINALLY PASSED BY THE COMMISSION OF THE CITY OF HELENA,
MONTANA, THIS 9th DAY OF DECEMBER, 2019.

/S/ WILMOT COLLINS
MAYOR

ATTEST:

/S/ DANNAI CLAYBORN
CLERK OF THE COMMISSION