

ORDINANCES OF THE CITY OF HELENA, MONTANA

ORDINANCE NO. 3253

AN ORDINANCE ELIMINATING OUTDATED AND DUPLICATIVE BUSINESS REGULATIONS BY REPEALING CHAPTERS 2 THROUGH 14 AND ADOPTING NEW CHAPTER 2 OF TITLE 4 OF THE HELENA CITY CODE

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

That Chapters 2 through 14 of Title 4 of the Helena City Code are hereby repealed with the chapter numbering reserved for future use, except that the following Sections of Chapter 3: Pawnbrokers, Junk Dealers and Secondhand Dealers: 4-3-4: Records, 4-3-5: Inspection by Police, 4-3-7: Sale of Articles, 4-3-8: Stolen Property to be Reported, 4-3-9: Proof of Age and Legal Identification, and the entirety of Chapter 14: Sale of Tobacco are recodified as Chapter 2, Sections 1 and 2 respectively, of Title 4 of the Helena City Code.

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TITLE 4

BUSINESS REGULATIONS

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CHAPTER 2

BUSINESS REGULATIONS

- 4-2-1: PAWNBROKERS
- 4-2-2: SALE OF TOBACCO

4-2-1: PAWNBROKERS:

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- A. RECORDS:** The licensee must keep or cause to be kept a record, in triplicate, on a form numbered consecutively, prescribed by the chief of police, written in ink without changes or erasing, showing the exact time of acceptance of any article in the course of business, an accurate description of each and any article received so that same can be easily identified.

A true copy of the record must be open for inspection by the chief of police and members of the police department at all reasonable hours.

The record must be kept for one year from the date of receipt of the article.

A true and exact copy of the record must be delivered immediately to the person from whom such article was received and the original copy of such report must be mailed or delivered to the chief of police before twelve o'clock (12:00) noon on the date following the receipt of such article.

The record must contain the following information:

1. a detailed description of the article received, including, number, color, size, unusual marks, make and model, and any other matter of identification;
2. the name and residence of the person from whom such article is received;
3. physical description of the person from whom the article was received, including the person's height, weight, age, nationality, color, complexion, color of hair, eyes, sex, and distinguishing marks;
4. the terms and conditions of the transaction, including the rate of interest charged, and amount allowed on each article received.

(Ord. 1516, 12-27-1954; amd. Ord. 3253, 5-20-2019)

- B. INSPECTION BY POLICE; STOLEN ARTICLES:** All articles must be produced for inspection on demand by the chief of police or a police officer. Any article designated by the chief of police or a police officer as being stolen property cannot

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be offered for sale, returned to the person from whom the article was received, sold, or otherwise disposed of in any manner thereafter except upon written permission of the chief of police or order from a court of record. (Ord. 1516, 12-27-1954; amd. Ord. 3253, 5-20-2019)

- C. SALE OF ARTICLES:** No article received can be sold, removed from the city or otherwise disposed of until after the passing of five (5) days after the article has been reported to the chief of police as set forth in section 4-3-4 of this chapter unless personally inspected by the chief of police or a member of the police department and released for sale. All articles received must be kept within the licensee's place of business when not so inspected and released during said period, grouped by date received in a manner satisfactory to the chief of police. (Ord. 1516, 12-27-1954; amd. Ord. 3253, 5-20-2019)

4-2-2: SALE OF TOBACCO:

- A. INTENT:** It is the intent of the City Commission in enacting this ordinance to protect public health and welfare by reducing access to flavored tobacco products and self-service access to tobacco products, making it easier to quit and more difficult to start.
- B. DEFINITIONS:** The following words and phrases, whenever used in this article, have the meanings defined in this section unless the context clearly requires otherwise:

Tobacco Product:

Any product containing, made, or derived from tobacco or that contains nicotine that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including but not limited to cigarettes, cigars, hookahs, pipes, electronic cigarettes,

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e-cigars, electronic pipes, vape pens, or electronic hookahs. Notwithstanding any provision to the contrary, "Tobacco Product" includes any component, part, or accessory intended or reasonably expected to be used with a Tobacco Product, whether or not sold separately. The term does not include drugs, devices, or combination products approved for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

Tobacco Retailer:

Any person who distributes tobacco, or tobacco products. "Tobacco Retailing" means the doing of any of these things. This definition is without regard to the quantity of tobacco products or Tobacco Paraphernalia sold, offered for sale, exchanged, or offered for exchange.

Self-Service Display:

The open display or storage of tobacco products in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and without a direct person-to-person transfer between the purchaser

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and the retailer or employee of the retailer.

Distribute:

To give, deliver, sample, or sell; to offer to give, deliver, sample, or sell; or to cause or hire another person to give, deliver, sample, or sell or offer to give, deliver, sample, or sell.

C. SALE OF TOBACCO PRODUCTS BY SELF-SERVICE DISPLAY PROHIBITED: A tobacco retailer may not distribute tobacco products by means of a self-service display. The purchaser may not take possession of the tobacco product until after payment has been received and processed. This section does not apply to facilities where the tobacco retailer ensures that no person younger than 18 years of age is present, or permitted to enter, at any time.

D. COMPLIANCE AND INSPECTIONS:

1. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

2. Inspections:

a. Inspections will occur biannually during the first year of ordinance implementation.

b. Inspections will occur annually after the first year of implementation.

3. Inspections will be conducted following all confirmed violations.

E. VIOLATIONS AND PENALTIES: It is a violation for any person to fail to comply with the requirements of this chapter. If a person is found to have violated this chapter, the person may be assessed a civil penalty as follows:

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1. Violations within sixty (60) days of effective date of this chapter will result in a warning letter and education.
2. Upon a first violation of this chapter City will impose a civil penalty of at least five hundred dollars (\$500).
3. Upon a second violation of this chapter City will impose a civil penalty of at least seven hundred fifty dollars (\$750).
4. Upon a third violation of this chapter City will impose a civil penalty of at least one thousand dollars (\$1,000).

Each day of violation constitutes a separate offense. Failure to comply with any provision of this ordinance constitutes grounds for the denial of, refusal to renew, suspension of, or revocation of any food, liquor, tobacco, or other business license issued by the city.

F. SEVERABILITY: If any portion of this chapter, or its application to any circumstances, is held invalid, the remaining portions are severable, and must be given effect to the maximum extent possible. (Ord. 3247, 10-29-2018; amd. Ord. 3253, 5-20-2019)

FIRST PASSED BY THE COMMISSION OF THE CITY OF HELENA,
MONTANA, THIS 22ND DAY OF APRIL 2019.

/S/ WILMOT COLLINS
MAYOR

ATTEST:

/S/ DEBBIE HAVENS
CITY CLERK

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

/S/ WILMOT COLLINS
MAYOR

ATTEST:

/S/ DEBBIE HAVENS
CITY CLERK