

## ORDINANCE NO. 1012

AN ORDINANCE AMENDING CHAPTER 9.20 OF DOUGLAS MUNICIPAL CODE  
PERTAINING TO POSSESSION OF TOBACCO BY MINORS

WHEREAS, the City of Douglas ~~shall~~ may, pursuant to Wyoming Statute ~~§ 12-4-101-15-1-103 et seq., license and regulate the manner in which liquor licenses and permits are issued~~ adopt ordinances, resolutions, or regulations for the health, safety, and welfare of the City; and

Commented [CS1]: I'm not sure which statute actually authorizes the municipal regulation of fines for tobacco sales.

WHEREAS, based upon modifications to the State of Wyoming state statutes, the following are recommended changes to Chapter 9.20 of the Douglas Municipal Code.

## BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DOUGLAS, WYOMING:

**Section 1.** Section 9.20.030 of the Douglas Municipal Code is hereby amended to read as follows:

**9.20.030 – Tobacco – Possession by minors prohibited.**

A. It is unlawful for any person under the age of ~~eighteen (18)~~ twenty-one (21) years to possess or use any tobacco products. ~~A person shall not be arrested for an alleged violation of this subsection but shall be issued a citation as a charging document by a peace officer having probable cause to believe the person violated this subsection. An officer issuing a citation shall deposit one copy of the citation with the court having jurisdiction over the alleged offense. Bond may be posted and forfeited for an offense committed by persons eighteen (18) years of age and older and charged under this section in an amount equal to the fine imposed by subsection B.1. of this section.~~

B. Any person violating subsection A of this section is guilty of a misdemeanor punishable by a fine of not more than:

~~1. Any person eighteen (18) years of age or older violating subsection A. of this section is guilty of a misdemeanor punishable by a fine of twenty five dollars (\$25.00)~~

~~2.1 For persons under the age of eighteen (18) years old that are in violation of subsection A:~~

i. ~~For the first offense, a fine in the amount of fifty dollars (\$50.00) and/or, at the person's own cost, the person shall attend a nicotine or tobacco education/cessation program approved by the municipal court. Approved providers of the course shall charge no more than twenty five dollars (\$25.00) for the course for a first violation committed;~~

ii. ~~Two hundred fifty dollars (\$250.00) for a second violation committed within a twenty-four (24) month period; For a second offense, a fine in the amount of two hundred fifty dollars (\$250.00) and/or, at the person's own cost, the person shall attend a substance use/intervention class approved by the municipal court. Approved providers of the course shall charge no more than twenty five dollars (\$25.00) for the course;~~

iii. \_\_\_\_\_

iii. ~~Five hundred dollars (\$500.00) for any subsequent violations committed within a twenty-four (24) month period.~~

iv. ~~A person may, if convicted under subsection A, attend at their own cost a nicotine or tobacco education/cessation program or a substance abuse/intervention class that is approved by the municipal court. Should a person attend and complete any such program or class, the person's cost in attending said program or class may be deducted from their fine. Should a person's costs in attending said program exceed their fine amount, the fine shall not be reduced below zero dollars (\$0).~~

~~iii. For the third and each subsequent offense thereafter, the person shall perform at least ten hours but not more than twenty hours of community service as determined by~~

~~the court. The imposition of the customary ten dollars (\$10.00) in court costs may be assessed as determined by the court at its discretion.~~

~~C. For those individuals eighteen (18) years to twenty (20) years of age, who are in violation of subsection A. of this section, the court may allow the defendant to perform community service and receive credit against his/her fine at a rate of ten dollars (\$10.00) for each hour of community service work performed or each hour of attendance of a court approved tobacco or nicotine cessation program which cost shall be no great than twenty five dollars (\$25.00). The imposition of the customary ten dollars (\$10.00) in court costs shall be assessed as determined by the court.~~

C.

D. No conviction under this section, whether by guilty plea, adjudication of guilt or forfeiture of bond shall be reported by the court to any law enforcement agency. Upon payment/completion of the fine/penalty imposed by subsection B. of this section, a criminal conviction under this section shall be expunged by operation of law from all records of the court six (6) months after the entry of conviction. For any person whose record of conviction was expunged under this subsection, the conviction is deemed not to have occurred and the individual may reply accordingly upon any inquiry in the matter. No expungement under this subsection shall be considered for purposes of any other law providing for expungement.

**Section 2.** Section 9.20.040 of the Douglas Municipal Code is hereby amended to read as follows:

**9.20.040 Sale of tobacco to minors prohibited.**

- A. No person shall sell, offer for sale, give away or deliver tobacco products to any person under the age of ~~eighteen (18)~~ twenty-one (21) years.
- B. Any person violating subsection A. is guilty of a misdemeanor punishable by a fine of:
1. Fifty dollars (\$50.00) for a first violation committed within a twenty-four (24) month period;
  2. Two hundred fifty dollars (\$250.00) for a second violation committed within a twenty-four (24) month period regardless of the locations where the violations occurred;
  3. Seven hundred fifty dollars (\$750.00) for a third or subsequent violation committed within a twenty-four (24) month period, regardless of the locations where the violations occurred.

**PASSED AND APPROVED ON FIRST READING this 26<sup>th</sup> day of September, 2022.**

**PASSED AND APPROVED ON SECOND READING this \_\_\_\_\_ day of \_\_\_\_\_, 2022.**

**PASSED, APPROVED AND ADOPTED ON THIRD AND FINAL READING this \_\_\_\_\_ day of \_\_\_\_\_, 2022.**

\_\_\_\_\_  
René Kemper, Mayor

**Attest:**

\_\_\_\_\_  
Chaz Schumacher, City Clerk

Published: \_\_\_\_\_

**ATTESTATION**

I, Chaz Schumacher, the Clerk of the City of Douglas, Wyoming, do hereby attest and state that the above ordinance was published/posted in the manner required by law and that all procedures required by Wyoming State law were complied with.

---

Chaz Schumacher, City Clerk