

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 may, pursuant to Wyoming Statute § 15-1-103 et seq., adopt ordinances, resolutions, or regulations for the health, safety, and welfare of the City; and

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 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. For persons that are in violation of subsection A:
 - i. For the first offense, a fine in the amount of fifty dollars (\$50.00);
 - ii. For a second offense, a fine in the amount of two hundred fifty dollars (\$250.00);
 - 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).
- C. 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.
- D. As used in this chapter:
- i. "Tobacco Products" means any substance containing tobacco leaf or any product made or derived from tobacco that contains nicotine including, but not limited to, cigarettes, electronic cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco;
 - ii. "Electronic Cigarettes" means any device that can be used to deliver aerosolized or vaporized nicotine or synthetic nicotine material to the person using the device and includes any component, part and accessory of the device and any vapor material

intended to be aerosolized or vaporized during the use of the device. "Electronic cigarette" includes, without limitation, any electronic cigar, electronic cigarillo, electronic pipe, electronic hooka, vapor pen and any similar product or device.

"Electronic cigarette" does not include a battery or battery charger if sold separately from the electronic cigarette and does not include any product regulated as a drug or device by the United States food and drug administration under subchapter V of the Food, Drug and Cosmetic Act.

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 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 26th day of September, 2022.

PASSED AND APPROVED ON SECOND READING this 10th day of October, 2022.

PASSED, APPROVED AND ADOPTED ON THIRD AND FINAL READING this 24th day of October, 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