May 28, 2026

Christopher Brink
Director, City of Helena Community Development
316 N. Park Ave
Helena, MT 59601

Via hand delivery and email to
citycommunitydevelopment@helenamt.gov

Mr. Brink,

Please accept this as a zoning complaint under 11-1-13(A), Helena City Code (HCC). It appears that the Immigrations Customs and Enforcement facility located at 2800 Skyway Drive, Helena MT, 59602 (ICE facility), is being operated in violation Title 11 of the Helena City Code. I request you undertake an investigation and all remedial steps necessary to prevent this ongoing violation.

Summary

The ICE Facility appears to function as a holding facility, containing hold rooms. These are rooms used to detain and incarcerate individuals up to 72 hours, based on federal guidance. This meets the definition of "correctional facility" in Helena's zoning code. The ICE facility is located on property zoned "Airport." Airport zoning does not permit correctional facilities. As a result, the ICE facility violates Helena zoning, and the City must address this violation. 11-1-13(B–E), HCC.

A. The Helena ICE Facility Operates a Hold Room(s).

The ICE facility is a "holding facility" that contains at least one, if not multiple "hold rooms." A "holding facility" is a facility that contains hold

rooms that are primarily used for the short term confinement of individuals who have recently been detained, or are being transferred to or from a court, detention facility, or other holding facility."[1] A "hold room" is a "holding cell, cell block or other secure enclosure within a holding facility."[2]

Until 2024, use of hold rooms was limited to 12 hours.[3] But in 2025, ICE increased that number to 72 hours.[4] Since that time, inhumane and unconstitutional treatment of hold room detainees around the country has been recognized by courts[5] and the media.[6]

ICE is subject to numerous ongoing freedom of information requirements and publicly discloses detention data.[7] ICE's public detention data establishes that the Helena ICE Facility's hold rooms have been used at least 43 times since 2024, with 33 detentions in 2025 and 9 detentions through March 2026.[8] There is no dispute that the Helena ICE Facility

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[1] Ex. 1 at 2, Operations in ERO Holding Facilities.
[2] *Id*.
[3] Even at 12 hours, these facilities are correctional facilities under Helena zoning.
[4] Ex. 2, Nationwide Hold Room Waiver Memorandum.
[5] *e.g.* *Clarke v. U.S. Dep't of Homeland Sec.*, No. 25-CV-6773 (GRB), 2025 WL 3674471, at *7 (E.D.N.Y. Dec. 18, 2025) ("The evidence reveals that ICE is similarly ignoring its requirements concerning the provision of seating, cleaning, safety inspection, bedding, meals, temperature and the requirement that '[h]old rooms with toilets shall allow for an appropriate amount of privacy.'"); *Mercado v. Noem*, 800 F. Supp. 3d 526, 550 (S.D.N.Y. 2025) ("ICE has forced these detainees into facilities that are too small to accommodate the numbers, that never were intended to hold people overnight, that are unequipped to feed them properly, and that, more broadly, are not capable of housing the detainees in a humane manner.");
[6] https://coloradotimesrecorder.com/2026/03/exclusive-ice-locks-thousands-including-kids-in-170-hold-rooms-nationwide-heres-where-they-are/77352/. The Colorado Times Recorder story includes a reference to the ICE Facility in Helena.
[7] *See* *https://deportationdata.org/index.html*
[8] Ex. 3, ICE detention data. March 2026 is the most recent month ICE has provided public data for.

detains arrested individuals, individuals coming from or going to court, or individuals awaiting transfer to other detention facilities.

B. The ICE Facility Constitutes a "Correctional Facility" Under Helena's Zoning Code.

The ICE Facility detains individuals who have been arrested and are awaiting trial. Helena defines "correctional facilities" as "Prisons and jails for the detention of persons awaiting trial or sentenced as punishment for criminal offenses, including youth detention facilities." 11-2-4, HCC. State law does not define a "jail" but the term is interchangeable with a detention center: "a facility established and maintained by an appropriate entity for the purpose of confining arrested persons or persons sentenced to the detention center."[9] And Montana law allows detention centers to hold civil immigration detainees along with criminal detainees.[10] In other words, the Helena ICE facility detains individuals in a manner identical to that of Montana detention centers.[11]

Furthermore, Federal courts also consider ICE hold rooms and holding facilities to be detention facilities.[12] And ICE itself applies detention standards to hold facilities and hold rooms.[13] The ICE facility constitutes a "correctional facility" under Helena's zoning code.

C. Airport Zoning Does Not Permit Correctional Facilities.

Helena's land use table states that a correctional facility is "not permitted" in an airport zoning district. The ICE Facility is located in the

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[9] Section 7-32-2120(1), MCA; *see* § 7-32-2225, MCA (using the term "jail" as interchangeable with "detention center").

[10] Section 7-32-2203(3), MCA; § 27-16-801.

[11] Under Montana law, "confine" and "detain" are interchangeable. *See* § 7-32-2203, MCA.

[12] *E.g Advocs. for Hum. Rts. v. U.S. Dep't of Homeland Sec.*, No. 26-CV-749 (NEB/DLM), 2026 WL 850270, at *20 (D. Minn. Mar. 26, 2026).

[13] Ex. 1 at 1, (applying "ICE detention standards" and "Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities.")

Airport district. As a result, the ICE Facility is not compliant with its zoning district.

D. The City Must Investigate and Take Corrective Action.

Upon receipt of this complaint, the Community Development Department is required to investigate. 11-1-13(A), HCC. Upon a finding of a violation, a person responsible for the violation must be "ordered to take corrective action." 11-1-13(B), HCC. A violation is a misdemeanor crime, and results in daily $500 fines. 11-1-13(C), HCC. Moreover, the penalties apply to both the tenant and owner of the offending property. 11-1-13(D), HCC. Finally, the City can take legal action to prevent a continued violation. 11-1-13(E), HCC.

Conclusion

Thank you for your attention to this matter. I know you will give this complaint the serious attention it deserves. I am available to answer any questions or provide any additional information.

Sincerely,

J. Cort Harrington

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