

AN ORDINANCE TO REPEAL SECTION 9.08.020 OF THE RAPID CITY MUNICIPAL CODE AND TO ENACT AND AMEND PROVISIONS CONCERNING CERTAIN BEHAVIORS THAT ARE A PUBLIC SAFETY RISK

WHEREAS, the City of Rapid City has the power to enact ordinances, enforce its ordinances, and exercise jurisdiction over all territory within its corporate limits for the purpose of promoting the health, safety, morals, and general welfare of the community pursuant to state statute, including but not limited to SDCL 9-29-1 and SDCL Title 9 generally; and

WHEREAS, the City of Rapid City has adopted provisions concerning certain behaviors that are a risk to public safety in various chapters of the Rapid City Municipal Code, including, but not limited to Chapters 9.08 and 12.12; and

WHEREAS, the Common Council of the City of Rapid City deems it to be in the City's best interests to enact and amend provisions concerning certain behaviors in order to protect public safety, health, morals, and general welfare; and

WHEREAS, the Common Council of the City of Rapid City deems it to be in the City's best interests to repeal section 9.08.020 of the Rapid City Municipal Code.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 9.08.020 of the Rapid City Municipal Code is repealed.

BE IT FURTHER ORDAINED by the City of Rapid City that Section 9.08.110 of the Rapid City Municipal Code is hereby adopted to read in its entirety as follows:

9.08.110 Public places–Unlawful behavior.

It is unlawful for any person, within the corporate limits of this city and in a public place, to:

A. Engage in conduct that is intimidating, threatening, aggressive, coercive, confrontational or obscene and that places another person in fear of safety of life, limb, health or property;

B. Accost a person by approaching or speaking to the person in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his or her person, or upon property in his or her immediate possession;

C. Place another person in fear of safety of life, limb, health or property based upon actions and presence within 30 feet from an automated teller machine (ATM);

D. Place another person in fear of safety of life, limb, health or property based upon actions and presence within 30 feet of a motor vehicle while the other person is entering or exiting the motor vehicle;

E. Engage in conduct that is intimidating, threatening, aggressive, coercive, confrontational or obscene and could reasonably be construed as conduct that is designed to induce a person to relinquish control over the person's property; or

F. Engage in a roadside distraction that either impedes the flow of traffic or causes a public safety issue.

A public place is any place, whether in or out of a public building, commonly and customarily open to or used by the general public including, but not limited to, any street, sidewalk or other right-of-way.

BE IT FURTHER ORDAINED by the City of Rapid City that Section 12.12.020 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

12.12.020 Public rights-of-way–Unlawful obstructions–Exclusions.

A. It is unlawful for any person, without legal privilege to do so, to obstruct any public street, alley, sidewalk, way, place or building, whether alone or with others and who, after warning by a police officer, persists in so obstructing the same.

1. To **OBSTRUCT** means rendering impassable without reasonable inconvenience or hazard. No person shall be deemed to have violated this section solely because of a gathering of persons to hear him or her speak or otherwise communicate or solely because of being a member of the gathering.

2. A person in a gathering commits a violation if he or she refuses to obey a reasonable request or order by a police officer to move.

- a. To prevent obstruction of a public street, alley, sidewalk, public way, place or building;
- or
- b. To maintain public safety by dispersing those gathered in dangerous proximity to a fire or hazard.

3. A request or order to move addressed to a person whose speech or other lawful behavior attracts an obstructing audience shall not be deemed reasonable if the obstruction can readily be remedied by police control of the size or location of the gathering.

4. For the purposes of this section, **PUBLIC** means affecting or likely to affect persons in a place to which the public or a substantial group has access, among such places are included public streets, alleys, places, public buildings and any places of business or amusement which the buildings, places of business or amusement are open to the public.

B. It is unlawful for any person to loiter, stand or sit in or upon any public street, alley, sidewalk or crosswalk so as to in any manner hinder or obstruct the free passage therein or thereon of persons or vehicles passing or attempting to pass along the same, or so as to in any manner annoy or molest persons passing along the same.

C. It is unlawful for any person to place any goods, wares or merchandise for exhibition or sale upon any public street, alley, sidewalk or any public grounds in the city, or place or cause to be placed thereon any goods, wares or merchandise, or bottles, cans, cases, packages, barrels, or other containers, at any time for exhibition, sale or any other purpose, or place or cause to be placed thereon, any advertising sign, bicycle rack, popcorn stand or rack, or any other moveable property, article or material which in any manner obstructs or interferes with the free use of such public street, road, alley, sidewalk or public ground. A business located within the Original Town of Rapid which is bordered by Omaha Street on the north, South Street on the south, West Boulevard on the west and East Boulevard on the east is exempt from this subsection in conjunction with a special event being conducted within the Central Business zoning district. A **SPECIAL EVENT** would be an event that was authorized by issuance of a special event and/or parade permit approved by the Chief of Police or designee, a crazy days or other similar promotion organized by the Rapid City Downtown Association, or a special event being held at Main Street Square. Under this exception, a business may use the sidewalk area immediately adjacent to its business for the purposes identified above so long as the display or merchandise does not unreasonably impair the free use of the sidewalk or otherwise pose a hazard to public safety. This exception applies 1 hour before the event begins and ends 1 hour after the event has ended. If in the opinion of law enforcement or the Fire Department, a business using this exception is impairing the use of the sidewalk or otherwise poses a hazard to public safety they may be required to cease or alter their activities so that the impairment is removed or the threat to public safety is abated.

D. For purposes of subsections A. through C. of this section, the placement of tree planters and attached benches upon sidewalks by the owner of the abutting property, or his or her agent, shall not be construed as an obstruction; provided that, the sidewalk is approximately 15 feet in width and that there remains a minimum of 5 feet between the tree planter, attached benches and the property line, and that there remains a minimum of 3 feet between the tree planter, attached benches and the back of the curb.

1. The placement and design of the tree planters, attached benches and the types of trees used shall be approved by the Public Works Director or his or her designee;

2. The owner of the abutting property or his or her agent, who places the planters and attached benches upon the sidewalk, shall keep the trees, the tree planters and the attached benches in a neat and satisfactory manner;

3. No advertising of any kind or nature shall be permitted to be placed upon the tree planter or attached benches.

E. It is unlawful for any person to hinder or obstruct another person's free passage within any public street, alley, sidewalk or crosswalk after having consumed alcohol, marijuana or any controlled drug or substance for as long as physical evidence of the consumption is present.

1. For purposes of this section, **HINDER** means to cause a person to slow down in speed, cause a person to deviate from his or her path or cause a person to turn around.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)

First Reading:

Second Reading:

Published:

Effective: