

ORDINANCE NO. 6454

AN EMERGENCY ORDINANCE REQUIRING THE WEARING OF FACE COVERINGS IN INDOOR PUBLIC SPACES TO SLOW THE COMMUNITY SPREAD OF THE NOVEL CORONAVIRUS (COVID-19).

WHEREAS, the City of Rapid City has the authority pursuant to SDCL 9-29-1 to pass ordinances for the purpose of promoting the health, safety, morals, and general welfare, of the community; and

WHEREAS, pursuant to SDCL 9-32-1, the City has the power to do what is necessary or expedient for the promotion of health or the suppression of disease; and

WHEREAS, an outbreak of the disease COVID-19, which is caused by the novel coronavirus, has been confirmed in more than 100 countries, including the United States; and

WHEREAS, COVID-19 is a severe respiratory disease transmitted by person-to-person contact, or by contact with surfaces contaminated by the virus. In some cases, especially among older adults and persons with serious underlying health conditions, COVID-19 can result in serious illness requiring hospitalization, admission to an intensive care unit, and death; and

WHEREAS, the World Health Organization (WHO), the Centers for Disease Control and Prevention (CDC), and the Secretary of the U.S. Department of Health and Human Services have declared the outbreak of COVID-19 as a public health emergency; and

WHEREAS, in the last few weeks the number of active cases of COVID-19 have accelerated rapidly in both South Dakota and Pennington County; and

WHEREAS, over the last month the number of people in South Dakota who are dying from COVID-19 has also been increasing; and

WHEREAS, as of November 17, 2020, the State of South Dakota has 18,624 active cases of COVID-19; and

WHEREAS, the increase in the number of active COVID-19 cases has caused a corresponding increase in the number of people hospitalized which is straining the capacity of the City's medical facilities; and

WHEREAS, if no action is taken to slow the spread of COVID-19 in the community it is likely to overwhelm the hospital's capacity; and

WHEREAS, it is important that control measures be taken to reduce or slow down the spread of COVID-19 in order to protect the health and safety of the City's residents, especially

for seniors and those with underlying health conditions that make them particularly vulnerable to COVID-19; and

WHEREAS, the CDC and the vast majority of medical professionals are recommending the use of face coverings by the public to slow the spread of COVID-19; and

WHEREAS, the City is implementing a framework for businesses to require people to wear face coverings in certain indoor public places in the hopes that it will slow the spread of COVID-19 and avoid the need for further restrictions on businesses and limitations on public gatherings in the City; and

WHEREAS, the Common Council of the City of Rapid City has determined that it is in the City's best interests to adopt regulations facilitating the wearing of face coverings in indoor public places within the City in an effort to slow the spread of COVID-19 and prevent the City's medical facilities from being overwhelmed by the recent surge in new positive cases.

NOW THEREFORE, BE IT ORDAINED, by the Common Council of the City of Rapid City that:

I. DEFINITIONS

INDOOR PUBLIC PLACE as used herein shall mean any enclosed facility with an occupancy capacity of 50 or more people operating as a bar, restaurant, brewery, café, casino, coffee shop, recreational or athletic facility, health club, grocery store, market, retail store, hardware store, sporting goods store, convenience store, home improvement store, pharmacy, drug store, food pantry, city-owned facility, house of worship, vehicle for hire, transportation networking company (TNC) vehicle, theater, or entertainment venue.

II. FACE COVERINGS REQUIRED

Within the City of Rapid City, all customers, patrons, guests, and employees who have face to face contact with the public, must wear a face mask/face covering in indoor public places where 6-foot social distancing cannot be achieved or maintained. A "face covering" or "mask" must be worn to cover the nose and mouth completely, and can include a paper or disposable face mask, a cloth mask, a scarf, a bandanna, or neck gaiter. Any business that falls within the definition of an indoor public place must make reasonable efforts to ensure that patrons of the business are complying with the requirements of this ordinance including the posting of signage notifying patrons of the requirement that masks or other face coverings must be worn. If any person refuses to wear a mask, or other face covering, after the business has made efforts to get them to do so, the business or property owner has the ability to ask the patron to leave the premises and if the patron refuses to comply with such a request they can be charged with a trespass pursuant to Section 9.12.140 of the Rapid City Municipal Code. Nothing in this ordinance should be construed as preventing any business, or property owner, from adopting or maintaining rules or restrictions on the

wearing of face coverings or implementing social distancing requirements that are stricter than the provisions in this ordinance. The restrictions set forth in the above paragraph shall not apply to an individual:

- a) Under the age of five (5) years old;
- b) Seated at a public place to eat or drink, or while immediately consuming food or beverages;
- c) Who is receiving dental or medical care that prevents them from wearing a face covering;
- d) With a medical condition, mental health condition, or disability that makes it unreasonable for the individual to maintain a face covering;
- e) Individuals who are engaged in swimming or a team sports activity where the level of exertion makes it difficult to wear a face covering; and
- f) Public safety workers actively engaged in a public safety role, including but not limited to law enforcement personnel, fire fighters, or emergency medical personnel, in situations where wearing a face covering would seriously interfere in the performance of the individual's public safety responsibilities;

III. OPT OUT

The owner, or operator, of any indoor public space as defined in sub-section (I) can opt out of the requirement that a mask or face covering be worn. Any business choosing to opt out can do so by notifying their patrons by posting signage in conformance with sub-section (IV) at each public entrance to the building.

IV. SIGNAGE

The owner, or operator, of any indoor public space as defined in sub-section (I) shall place appropriate signage on all public entrances indicating whether they are following the requirements contained in this ordinance, or that they have decided to opt out of the requirements. For businesses or property owners choosing to participate in the requirement that masks or face coverings be worn the signage shall have the following language:

“Pursuant to Rapid City Ordinance 6454, masks or face coverings are required while in this building.”

For businesses or property owners choosing to opt out of the requirements of this ordinance the signage shall have the following language:

“This business has opted out of the Rapid City ordinance requiring the wearing of masks or other face coverings. Masks or face coverings are recommended, but not required while in this building.”

All signs shall be posted in a conspicuous place at each public entrance, be legible, and the lettering should be of an appropriate size and contrast that those entering the building can reasonably see and read the signage.

V. PENALTY

The enforcement of this ordinance will primarily be through an administrative process, rather than through a criminal process. When a violation occurs, the City will notify the business of the violation, provide additional information on the ordinance and ask for compliance. When further violations are noted, additional contact with the business will take place, either in writing or in person through the City Code Enforcement division. If prolonged non-compliance exists, criminal prosecution may occur. The total fine and costs for a violation of this ordinance will be \$100. Each day that a violation occurs can be considered a separate offense.

VI. EFFECTIVE

This ordinance shall remain effective until February 28, 2021, unless otherwise extended, amended, or terminated by ordinance. The City Council may suspend or, once suspended, reinstate enforcement of this ordinance by resolution at any time before the expiration of the ordinance.

VII. IMMEDIATE EFFECT

This ordinance is hereby declared necessary for the immediate preservation of the public health, safety, and welfare of the city and shall become effective immediately upon its passage and publication pursuant to SDCL 9-19-13.

Dated this ____ day of December, 2020.

CITY OF RAPID CITY

Steve Allender, Mayor

ATTEST:

Pauline Sumption, Finance Director

(SEAL)

First Reading:
Second Reading:
Published:
Effective: