

Resolution 21-024

A Resolution Replacing the Mandatory Provisions set forth in Emergency Ordinance **21-013 ~~21-004~~ with Recommendations to Address a Public Health Crisis and Slow the Spread of Coronavirus (COVID-19) in the City of Brookings, South Dakota.**

I.

Be It Resolved and adopted by the Council of the City of Brookings, State of South Dakota, as follows:

Whereas, the City of Brookings has the authority pursuant to SDCL 9-29-1 and SDCL 9-32-1 to pass ordinances and resolutions for the purpose of promoting the health, safety and general welfare of the community, and to do what may be necessary for the promotion of health or the suppression of diseases; and

Whereas, COVID-19 has been confirmed in more than 100 countries, including the United States; and

Whereas, COVID-19 is a continuing global pandemic. United States Supreme Court Chief Justice Roberts stated in a 2020 decision “people may be infected but asymptomatic, [and] they may unwittingly infect others”; and

Whereas, the Centers for Disease Control and Prevention, the World Health Organization, medical and scientific associations and physicians continue to suggest individuals wear a face covering to slow the spread of COVID-19; and

Whereas, Ordinance 21-001 was adopted to continue necessary procedures to slow the rise of positive cases of COVID-19 and slow down the rate of infection, and therefore bore a real and substantial relationship to public health because the measures were recognized to be the best available procedures to slow the rate of transmission of COVID-19; and

Whereas, the current rate of infections and community spread of COVID-19 in Brookings, South Dakota, together with the increasing number of vaccinated residents of Brookings County and within the State of South Dakota, and the reduction of hospitalizations provide the basis for replacing the mandatory restrictions set forth in Ordinance 21-001 with the recommendations set forth in this Resolution; and

Whereas, the intent of this Resolution is to encourage the public to continue the safety measures provided in this Resolution which, outside of the vaccines, remain reasonable measures available to reduce the spread of COVID-19; and

Whereas, while many States and Cities have recently revised their COVID-19 safety protocols, the City of Brookings and many States and communities across the country continue to encourage the public to follow White House and CDC

recommendations by restricting occupancy at bars, restaurants, food courts, gyms, and other indoor and outdoor venues where people congregate until the public health emergency is over; and

Whereas, the failure to follow reasonable recommendations, including social distancing would likely result in higher numbers of infected individuals and has the potential to threaten the capacity of the City's health care providers; and

Whereas, it is important that control measures, including use of face masks in indoor places, continue to 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 seniors and those with underlying health conditions that make them particularly vulnerable to COVID-19; and

Whereas, the City of Brookings has been utilizing Ordinance 21-001 and subsequently Ordinance 21-013 to address the COVID-19 public emergency in the City of Brookings; and

Whereas, based on the number of cases in Brookings County, the number of current hospitalizations in the City, and the available modeling, the City Council believes the occupancy, social distancing and face covering restrictions set forth in 21-001 and subsequently 21-013 can be replaced with similar recommendations which, while not mandatory, will reduce the potential for community spread of COVID-19 cases in the City and State.

Now, Therefore, the City Council of the City of Brookings makes the following recommendations:

1. Any businesses identified in Ordinance 20-005 may reopen or remain open to serve patrons on-site.
2. Businesses within the City of Brookings which are open to the public are encouraged to follow guidelines to slow the spread of COVID-19:
 - a) Establish a minimum six-foot distance between any tables. This provision does not need to be observed between members of the same household.
 - b) All businesses should collaborate with the City to identify their occupancy allowance and post it in a conspicuous location outside the building.
 - c) Restaurants, bars, and casinos should be limited to a maximum capacity of one-half ($\frac{1}{2}$) of their maximum posted capacity. Capacity should be posted at the front of the business.
 - d) All restaurants, food trucks and bars should disinfect or dispose of all menus before and after use by each customer. Condiment containers should be cleaned/disinfected between each group and should not be shared among multiple groups. Salad bars and self-service buffets are permitted, but not recommended.

- e) Grocery stores, retail businesses, recreation and fitness businesses should be limited to a maximum capacity of one-half ($\frac{1}{2}$) of their maximum posted capacity. Capacity must be posted at the front of the business.
- f) Businesses should require social distance spacing while customers or patrons are waiting for service or entry into a business. Spacing may be accomplished by requiring people to remain in their vehicles.
- g) In retail and grocery businesses, businesses should install a plexiglass, or similar divider where physically possible between the cashier and customer.
- h) Businesses should require employees to wash hands at regular intervals.
- i) Restaurant and bar (those businesses with an alcoholic beverage license) staff and employees should wear masks which cover the employee's nose and mouth.
- j) In casinos, video lottery machines should be cleaned and disinfected between each customer.
- k) Staff and employees of hair salons, nail and tanning salons, spas and barber shops should wear masks which cover their nose and mouth during customer contact times. Customer seating should be at least six (6) feet apart.
- l) In gyms and fitness facilities, any equipment and/or exercise mats should be cleaned or disinfected between each use.
- m) Customer seating in theaters and similar businesses should be reduced to allow for social distancing, with certain seats marked as "not available due to social distancing guidelines" to ensure compliance.
- n) Hand sanitizer locations readily available for public use should be made available at grocery stores and retail businesses.
- o) Enhanced cleaning/disinfecting requirements should be used for motel and hotel rooms.
- p) Seating for large gatherings should be reduced to comply with a six-foot minimum distance between attendees.
- q) Businesses are encouraged to conduct daily employee screenings for illness.
- r) Businesses are encouraged to post signage outside of their facility that encourages customers to wear face coverings and to not enter if they are not feeling well or have COVID-19 symptoms.
- s) Businesses are encouraged to develop risk mitigation strategies for restrooms or other areas where social distancing requirements are likely to be compromised.
- t) Certain businesses (e.g. gym, recreation facilities, casinos, etc.) are encouraged to have customers wipe down their equipment/machines before and after use. However, businesses

are recommended to ensure proper cleaning and disinfecting of equipment and surfaces potentially touched by customers and patrons is occurring.

- u) Businesses, particularly salons, barber shops, and spas are encouraged to provide service on an appointment-only basis to ensure proper social distancing and hygiene practices are met.
- v) Masks should be worn at city-sanctioned events. Masks which cover a person's nose and mouth should be required for all persons attending or working at events which require a City permit when a minimum of six – foot distance cannot be maintained or achieved.
- w) Masks should be worn when obtaining services from the healthcare sector in settings, including but not limited to, a hospital, pharmacy, medical clinic, laboratory, physician or dental office, veterinary clinic, or blood bank, unless directed otherwise by an employee thereof or a health care provider.
- x) Masks should be worn while riding on public transportation or while in a taxi, private car service, or ride-sharing vehicle.

3. The following individuals are exempt from wearing masks or other face coverings:
 - a) Persons age five years or under; Children age two years and under in particular should not wear a face covering because of the risk of suffocation;
 - b) Persons with a medical condition, mental health condition, or disability that prevents wearing a face covering. This includes persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance;
 - c) Persons who are deaf or hard of hearing, or when communicating with a person who is deaf or hard of hearing, where the ability to see the mouth is essential for communication;
 - d) Persons for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulations or workplace safety guidelines;
 - e) Persons who are obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service;
 - f) Persons who are seated at a restaurant or other establishment that offers food or beverage service, while they are eating or drinking, provided they maintain a 6-foot distance between individuals (not including individuals who reside together or are seated together) with only infrequent or incidental moments of closer proximity;
 - g) Athletes and participants who are engaged in an organized sports activity that allows athletes to maintain a 6-foot distance from others with only infrequent or incidental moments of closer proximity;
 - h) Persons who are engaged in an activity that a professional or

recreational association, public regulatory entity, medical association, or other public health oriented entity has determined cannot be safely conducted while wearing a mask or other face covering and where other protections and precautions are established and utilized;

- i) Persons attending educational institutions where the public and private schools through 12th grade, colleges, and universities have implemented protections to slow the spread of COVID-19;
 - j) Persons engaged in church and activities within religious places of worship, including preschools, social halls and chapels within church facilities, which may implement their own protections.
- 4. In addition to the specific recommendations listed above, businesses are encouraged to operate in a manner consistent with the most recent CDC guidelines and any applicable state regulations and the South Dakota Governor's Executive Orders. CDC guidelines continue to recommend use of face coverings where social distancing cannot be maintained.
 - 5. The City encourages all members of the public within the City of Brookings to continue to follow the CDC guidelines and recommended hygiene practices, including, but not limited to, engaging in social distancing, and wearing masks when outside their homes wherever possible.
 - 6. Because this Resolution contains recommendations and not mandatory COVID-19 safety measures, businesses are no longer required to request administrative exceptions from the City to modify the strict compliance with these recommendations. The City will no longer require that businesses implement social distancing, or that Business are required to comply with the recommendations set forth in this Resolution or the CDC guidelines.
 - 7. This Resolution contains recommendations, and while adherence to the recommendations is requested in the public interest, there is no penalty for any person or business who cannot or chooses not to comply with any of the recommendations contained in this Resolution.
 - 8. The recommendations set forth herein may not be applicable to the following entities which have their own specific COVID-19 restrictions:
 - a. Health care facilities, residential care facilities, congregate care facilities, and correctional facilities.
 - b. Crisis shelters, homeless shelters, and other similar institutions.
 - c. Any emergency facilities necessary for the response to the current public health emergency or any other community emergency or disaster.

- d. Official meetings of the city, schools, county or state.
 - e. The operations and meetings of any state or federal courts.
 - f. Educational institutions where public and private schools through 12th grade, colleges, and universities have implemented protections to slow the spread of COVID-19.
 - g. Places of worship.
 - h. Any and all polling places, including absentee voting and Election Day polling places, as well as all locations for processing absentee ballots and counting ballots. All polling places for absentee and Election Day voting shall remain open at all times.
9. This Resolution shall remain in effect for a period of sixty (60) days, at which time it shall be automatically repealed unless specifically readopted for an additional period of time by the City Council.
10. Enforcement – This Resolution contains only safety recommendations to reduce the spread of COVID-19, and there will be no penalty or enforcement actions which stem from noncompliance with the recommendations provided in this Resolution.
11. Ordinance 21-001 as subsequently amended by Ordinance 21-013 shall expire at the earliest date permitted by law, and until it expires, its requirements will be considered recommendations.
12. Face Masks/Face Coverings Recommended. Within the City of Brookings, it is recommended, but not required, that all persons except those under the age of five (5) and those with a medical condition, mental health condition, or disability that makes it unreasonable for the individual to maintain a face covering, wear a face mask/face covering in indoor businesses and indoor public places where six (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 neckgaiter.

II.

Be, It Further Resolved that pursuant to SDCL 9-19-13, this resolution is adopted to address a public health emergency and is necessary for the immediate preservation of the public peace, health, safety and welfare of the City and shall become effective immediately upon passage and publication.

TABLED to the ~~March 23, 2021 City Council Meeting:~~ ~~March 16, 2023~~

Dated this _____ day of April, 2021

CITY OF BROOKINGS

Keith W. Corbett, Mayor

ATTEST:

Bonnie Foster, City Clerk