



**Mission Statement**  
*To provide exemplary experiences, services & spaces that create opportunities for everyone to learn, engage and thrive.*

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## **YANKTON BOARD OF CITY COMMISSIONERS**

Special City Commission Meeting beginning at 5:30 P.M.

**Wednesday, December 2, 2020**

Located at the Career Manufacturing Technical Education Academy formerly known as Technical Education Center • **1200 W. 21<sup>st</sup> Street • Room 114**

**Due to the COVID-19 virus, this meeting will be conducted electronically in compliance with SDCL. If you would like to watch the City Commission meeting you can do so by accessing the City of Yankton's YouTube Live Channel.**

<https://www.youtube.com/channel/UCD1a1hf1dIkiLVSXnmdRQg/live>

If you would like to participate in the City Commission meeting, limited access will be provided through the west door of the CMTEA building. You will be asked to state what item you would like to participate in and allowed access one person at a time into the meeting room. You will be asked to introduce yourself and make your comments. Alternatively, you can comment or ask questions utilizing the chat function on the YouTube Livestream or email [commission@cityofyankton.org](mailto:commission@cityofyankton.org).

Rebroadcast Schedule: Tuesday @ 7:30pm, on channels 3 & 45

**Due to the policy of the Yankton School District, a properly worn face covering must be worn while in the CMTEA building. If you cannot wear a face covering due to a medical condition, the accommodation is the City of Yankton's YouTube Channel.**

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### **I. ROUTINE BUSINESS**

- 1. Roll Call**
- 2. Public Appearances**

*Public appearances is a time for persons to address the City Commission on items not listed on the agenda. No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken. Each person has up to three minutes to speak. Comments made during the Public Appearance Comment period of the agenda may be on any subject. There shall be no personal attacks against the Mayor, members of the City Commission, City Staff, or any other individual.*

### **II. OLD BUSINESS**

NONE

### **III. NEW BUSINESS**

- 1. Ordinance #1044 – Establish Public Hearing**  
Memorandum supporting first reading of Ordinance #1044, Temporary Mask Ordinance and setting December 9, 2020 as second reading and public hearing of said Ordinance.

The City Commission does not vote on the ordinance at this meeting. There will not be public comment taken on the first reading of the ordinance. The opportunity for public comment will take place at the public hearing (second reading). The date, time, and location of that meeting will be established by vote of the City Commission.

Written comments for the public hearing associated with this ordinance can be emailed to [commission@cityofyankton.org](mailto:commission@cityofyankton.org). Alternatively, letters can be written and sent to the Yankton City Commission, Yankton City Hall, PO Box 176, Yankton, SD 57078. These will be collected and made part of the official record. All comments for the public hearing should be received no later than 3:00 pm on Tuesday, December 8, 2020. If you have provided comment on this matter within the last 30 calendar days (November 8-December 8) this information will be included in the public record and does not need to be resubmitted.

Alternative forms of participation will be made available. However, written comment is encouraged to avoid gathering.

### **Attachment III-1**

*Adoption of an ordinance is typically a two-meeting process. At the first meeting, an ordinance is introduced, and the first reading is held. During the second meeting, the ordinance is discussed by the commission and the public and then considered for adoption.*

#### **IV. OTHER BUSINESS**

#### **V. ADJOURN THE MEETING OF DECEMBER 2, 2020**

*Should you have any reason to believe an open meetings law has been violated please contact the Open Meetings Commission at the South Dakota Office of the Attorney General at: 1302 E. Hwy 14, Suite 1, Pierre, SD 57501-8501 or by phone at 605-773-3215.*

TEMPORARY ORDINANCE NO. \_\_\_\_\_

**AN EMERGENCY ORDINANCE REQUIRING THE WEARING OF FACE COVERINGS IN CERTAIN SITUATIONS TO SLOW THE COMMUNITY SPREAD OF THE NOVEL CORONAVIRUS CAUSING COVID-19 DISEASE.**

**WHEREAS**, the City of Yankton 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 caused by a virus 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 disease as a public health emergency; and  
**WHEREAS**, in response to the spread of COVID-19 Governor Kristi Noem issued Executive Order 2020-30 which declared a state of emergency to exist in all counties in the State of South Dakota through December 30, 2020; and

**WHEREAS**, in the last few weeks the number of active cases of COVID-19 have accelerated rapidly in both South Dakota and Yankton 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 30, 2020, the State of South Dakota has 17,184 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 the virus causing COVID-19 in the community, it is likely to overwhelm the capacity of the City of Yankton’s healthcare facilities to treat those with COVID-19; and

**WHEREAS**, it is important that control measures be taken to reduce or slow down the spread of the virus causing 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 the virus causing COVID-19; and

**WHEREAS**, the City is implementing a mandate that people wear face coverings in public in the hopes that it will slow the spread of the virus causing COVID-19 and avoid the need for further restrictions on businesses and limitations on public gatherings in the City; and

**WHEREAS**, the Board of City Commissioners of the City of Yankton has determined that it is in the City’s best interests to adopt a requirement that face coverings be worn in public in an effort to slow the spread of the virus causing COVID-19 disease 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 Board of City Commissioners of the City of Yankton that:

## **I. DEFINITIONS**

“FACE COVERING” as used herein shall mean a covering which, when worn properly, must cover the nose and mouth completely and can include a paper or disposable face mask, a cloth face mask, a scarf, a bandanna, a neck gaiter, or a religious face covering. Masks that incorporate a valve designed to facilitate easy exhaling, mesh masks, or masks with openings, holes, visible gaps in the design or material, or vents are not sufficient face coverings because they allow exhaled droplets to be released into the air.

“PREMISES OPEN TO THE PUBLIC” is broadly defined to mean any location or entity that employs or engages workers, including all private-sector entities, public-sector entities, non-profit entities of every variety, regular commercial or business establishments, private clubs, public transportation (including buses, taxis, ride-sharing vehicles, or vehicles used for business purposes) and any place which is generally open to the public, including daycare facilities.

## **II. FACE COVERINGS REQUIRED**

Within the City of Yankton, all persons must wear a face covering in a manner that completely covers the nose and mouth in premises open to the public where 6-foot social distancing cannot be achieved or consistently maintained. The owner or operator of each premises open

to the public must make reasonable efforts to ensure that all patrons, employees, and other persons within the indoor public place are complying with the requirements of this ordinance. The owner or operator of each premises open to the public shall post a visible sign at each public entrance notifying patrons of the requirement that face coverings must be worn upon the premises. Nothing in this ordinance should be construed as preventing any business, organization, or property owner, from adopting and enforcing rules or restrictions on the wearing of face coverings or social distancing requirements that are more restrictive 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; however, parents and guardians of each child aged three or four are encouraged to have such child wear a face covering if the child can remove the face covering without assistance;
- (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) Who is obtaining or receiving services that reasonably requires the temporary removal of a face covering in order to obtain or receive the service;
- (e) With a medical condition, mental health condition, or disability that makes it unreasonable for the individual to wear a face covering;
- (f) Who is engaged in swimming, showering, exercising, or a team sports activity where the nature of the activity or the level of exertion makes it reasonably impractical to wear a face covering, provided that minimum social distancing of six feet or more is maintained to the extent possible and further provided that all spectators, coaches, and non-participants wear a face covering;
- (g) Who is a public safety worker 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;
- (h) Who is engaged in an occupation reasonably preventing the wearing of a face covering;
- (i) Who is asked to temporarily remove a face covering to verify his or her identity for lawful purposes;

- (j) Who is providing a speech, lecture, sermon, or broadcast to an audience or officiating a ceremony or religious service so long as six feet of distancing from other individuals is maintained;
- (k) Who is seated at a desk or standing at a stationary workstation provided that the desk or workstation is shielded from the public or other employees by a solid wall or protective glass, plexiglass, or plastic barrier or partition;
- (l) Who is alone in an office, room, vehicle, the cab of equipment or machinery, or an enclosed work area; however, in such situations, the individual should carry a face covering to be used when the person is no longer alone;
- (m) Who is communicating with an individual who is deaf or hard of hearing or who has a disability, medical condition, or mental health condition that makes communication with that individual impractical while wearing a face covering, provided that minimum social distancing of six feet or more is maintained to the extent possible; or
- (n) Who is playing a musical instrument that cannot be played while wearing a face covering, provided that a minimum social distancing of six feet or more is maintained at all times.

### **III. NO PENALTY**

There shall be no fine or other penalty for any violation of this Ordinance; however, all property and business owners are encouraged and directed to refuse service and turn out all persons refusing to cooperate with the terms of this Ordinance with enforcement assistance provided by the Yankton Police Department under existing laws applicable to trespass.

### **IV. ORDINANCE SUNSET DATE**

This ordinance shall remain effective until 12:01 a.m. on March 1, 2021, unless extended, amended, or terminated by ordinance. Following recommendation of the City Board of Health, the City Commission may suspend or, once suspended, reinstate enforcement of this Ordinance by resolution at any time before the expiration of the ordinance.

### **V. 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 YANKTON

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Nathan V Johnson, Mayor

ATTEST:

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Al Viereck, Finance Officer

(SEAL)

First Reading:  
Second Reading:  
Published:  
Effective:

DRAFT