

ORDINANCE NO. 2020-33

AN ORDINANCE TO ADD ARTICLE II, SECTIONS 52.1.1 THROUGH 52.1.11, ENTITLED “REDUCTION IN SPREAD OF THE NOVEL CORONAVIRUS (COVID-19)”, TO CHAPTER 51 OF THE SEWARD MUNICIPAL CODE; TO PROVIDE LEGISLATIVE FINDINGS AND INTENT; TO REQUIRE INDIVIDUALS TO WEAR FACIAL COVERINGS AND EXCEPTIONS THEREOF; TO PROVIDE FOR THE ENFORCEMENT OF VIOLATIONS AND PENALTIES; TO ESTABLISH A SUNSET PROVISION; TO PROVIDE FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; AND, TO PROVIDE FOR A TIME WHEN THIS ORDINANCE SHALL TAKE EFFECT.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SEWARD, NEBRASKA:

Section 1. The City Council has authority under Section 72-1.12 of the Seward Municipal Code to adopt ordinance(s) as may be necessary or expedient to promote the public health and safety and the general interests and welfare of its citizens.

Section 2. The City Council has determined it is in the best interest for the City to adopt the following additions to the Seward Municipal Code and finds it necessary in order to effectively prevent, limit, or slow the spread of the Novel Coronavirus (COVID-19) among the citizens of the City of Seward.

Section 3. That Chapter 51, Article II, Section 52.1.1 through Section 52.1.11 of the Seward Municipal Code are hereby created as follows:

Article II. Reduction in the Spread of the Novel Coronavirus (COVID-19)

§ 52-1.1. Legislative Findings and Intent

(1) The City Council hereby finds and declares that:

- (a) the Novel Coronavirus (COVID-19) has impacted and continues to dramatically impact the citizens of the City of Seward, Nebraska; and
- (b) exposure to COVID-19 presents a potential risk of death or serious long-term disability; the exposure is widespread and poses potential risk of harm, including death, to people in the general population of the City of Seward; there is a particular subset of the population that is more vulnerable to the threat and is thus at an increased risk; and the threat is from a novel infectious disease; and
- (c) the increase of the spread of COVID-19 cases in the City of Seward creates an unacceptable risk to the health, safety, and welfare of the citizens of the City of Seward; and
- (d) the wearing of face coverings by every individual while indoors in public places

in the City of Seward will likely reduce community transmissions of COVID-19, potentially resulting in fewer deaths, serious health complications, and aims to ease the strain on hospitals and other medical offices and facilities; and

- (e) the wearing of face coverings by every individual while indoors in public places in the City of Seward will aim to help keep businesses open and operating, encouraging economic growth and preventing prolonged economic harm; and
- (f) it is just and proper for the City Council to exercise its authority under the Seward Municipal Code and Nebraska statutes in furtherance of protecting the public health, safety, and welfare.

§ 52-1.2. Definitions.

For purposes of this Article, the following terms are defined as follows:

- (1) **Face Covering.** – A face covering is defined as 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.
- (2) **Premises That Are Open to the General Public.** – Premises that are open to the general public are broadly defined to include entities that employ or engage workers, including private-sector entities, public-sector entities, non-profit entities, regular commercial or business establishments, private clubs, religious centers or buildings, 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 educational institutions and daycare facilities.

§ 52-1.3. Individual Face Coverings Required.

All individuals age five (5) and older shall wear a face covering over their mouth and nose while indoors in a premises that is open to the general public except face coverings will not be required if the individual:

- (1) is seeking federal, state, county, or city governmental services;
- (2) is seated at a bar or restaurant to eat or drink, or while immediately consuming food or beverages;
- (3) is engaged in an occupation preventing the wearing of face covering;
- (4) is obtaining a service or purchasing goods or services that require the temporary removal of the face covering;
- (5) is asked to remove the face covering to verify an identity for lawful purposes;

- (6) cannot otherwise wear a face covering because of a medical condition, a mental health condition, or a disability that makes it unreasonable for the individual to wear a face covering.

Nothing in this section shall prohibit the owner or person in charge of a premises that is open to the general public from requiring an individual to wear a face covering during any of the circumstances enumerated above or from implementing a more restrictive face covering policy.

§ 52-1.4. Premises That Are Open to the Public; Duty to Require Facial Coverings.

Any individual or entity that maintains premises that are open to the general public shall require all individuals age five (5) and older to wear a face covering over their mouth and nose while indoors in said premises, face coverings will not be required if the individual:

- (1) is seeking federal, state, county, or city governmental services;
- (2) is seated at a bar or restaurant to eat or drink, or while immediately consuming food or beverages;
- (3) is engaged in an occupation preventing the wearing of face covering;
- (4) is obtaining a service or purchasing goods or services that require the temporary removal of the face covering;
- (5) is asked to remove the face covering to verify an identity for lawful purposes;
- (6) cannot otherwise wear a face covering because of a medical condition, a mental health condition, or a disability that makes it unreasonable for the individual to wear a face covering.

Nothing in this section shall prohibit the owner or person in charge of a premises that is open to the general public from requiring an individual to wear a face covering during any of the circumstances enumerated above or from implementing a more restrictive face covering policy.

§ 52-1.5. Notice of Face Covering Requirements.

Any individual or entity which maintains premises that are open to the general public, must post one or more signs that are visible to all persons—including workers, customers, and visitors—instructing them to wear face coverings as required by this Article.

§ 52-1.6. Exceptions.

The provisions of this Article shall not apply to:

- (1) Courts of law; public utilities or federal, state, county, or city operations; medical providers, facilities, including chiropractic care or pharmacies; congregate living centers

or facilities; group homes and residential drug and/or mental health treatment facilities; shelters; airport travel; election offices; polling places on an election day; or to residential dwelling units.

- (2) Children under the age of five (5).
- (3) Federal and state activities. Nothing in this Article shall be construed to limit, prohibit, or restrict in any way the operations of the federal or state government or the movement of federal or state officials in the city while acting in their official capacity, including federal and state judicial, legislative, and executive staff and personnel.
- (4) Individuals at their workplace when wearing a face covering would create a job hazard for the individual or others, as determined by federal, state, or local regulators or workplace safety and health standards and guidelines.
- (5) Individuals who are alone in an office, room, a vehicle, the cab of heavy equipment or machinery, an enclosed work area, or in a cubicle with walls that are higher than face level when minimum social distancing of six (6) feet or more is maintained.
- (6) Individuals who are officiating at a religious service.
- (7) Individuals communicating with other individuals who are deaf or hard of hearing or who have a disability, medical condition, or mental health condition that makes communication with that individual while wearing a face covering difficult, provided that minimum social distancing of six (6) feet or more is maintained to the extent possible between persons who are not members of the same household.
- (8) Individuals who are engaged in activities such as swimming or showering, where the face covering will get wet.
- (9) Individuals who are exercising in an indoor business or indoor space such as a gym or fitness center, while the level of exertion makes it difficult to wear a face covering, provided that minimum social distancing of six (6) feet or more is maintained at all times.
- (10) 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.
- (11) Participants in an athletic competition or practice, but only while they are playing the game, if the school or sponsoring organization does not require facial coverings. Spectators, coaches, and non-participants are required to wear facial coverings.
- (12) Employees and students of public or parochial schools and universities while such employees or students are on public or parochial school and university premises.

§ 52-1.7. Public Nuisance Declared.

Any individual or entity which maintains premises that are open to the general public who fails to comply with the requirements of Section 52-1.4, above, is hereby declared to be a nuisance and a danger to the public health, safety, and welfare.

§ 52-1.8. Application.

The provisions of this Article shall only apply to all persons and property within the corporate limits of the City of Seward.

§ 52-1.9. Penalty.

Except as otherwise provided herein, any person who violates the prohibitions or provisions of this Article shall be deemed guilty of a violation. The penalty for such violation shall be \$50 for any one offense, recoverable with costs, and in default of said payment the offender shall stand committed to the County Jail until such fine and costs are paid. Each period of 24 hours during or on which a violation occurs or continues shall be deemed a separate offense.

§ 52-1.10. Civil Abatement.

In addition to any other penalty sought or obtained under this Article or other applicable law, the City Attorney may institute injunctive or other appropriate civil proceedings necessary to obtain compliance with this Article or to abate any nuisance resulting from violations of this Article.

§ 52-1.11. Sunset Provision.

The requirements imposed by this Article shall expire and terminate at 11:59p.m. on January 6, 2021, unless otherwise extended by the City Council.

Section 4. Pamphlet Form; Publication, When Operative. This ordinance shall be published in pamphlet form and shall be in full force and effective on December 5, 2020, at 10:00am Central Time, after its passage, approval, and publication or posting as required by law and city ordinance.

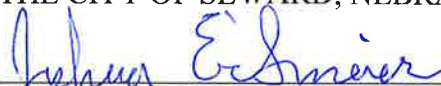
Passed and approved this 3rd day of December, 2020.

ATTEST:



Greg Butcher, City Administrator

THE CITY OF SEWARD, NEBRASKA



Joshua Eickmeier, Mayor

