ORDINANCE NO. 5825

AN ORDINANCE ALLOWING BUSINESSES IN THE CENTRAL BUSINESS DISTRICT TO SELL PRODUCTS ON THE SIDEWALK IMMEDIATELY ADJACENT TO THEIR BUSINESS DURING SPECIAL EVENTS BY AMENDING SECTION 12.12.020 OF THE RCMC.

WHEREAS, many downtown business owners have requested the ability to set up displays or the ability to sell merchandise outside of their businesses on the sidewalk immediately adjacent to their stores in conjunction with special events being held downtown; and

WHEREAS, most of the businesses in the City's Central Business District do not have outside space other than the public sidewalk on which to setup displays or sell merchandise; and

WHEREAS, the City of Rapid City would like to support the downtown businesses in conjunction with special events held in downtown Rapid City; and

WHEREAS, the City Council has determined that it is in the best interests of the City to allow businesses located in the City's downtown to setup displays or sell merchandise adjacent to their place of business by amending Section 12.12.020 of the Rapid City Municipal Code (RCMC).

NOW THEREFORE, BE IT ORDAINED, by the City of Rapid City that Section 12.12.020 of the RCMC:

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 St. on the north, South St. on the south, West Blvd. on the west and East Blvd. on the east is exempt from this sub-section 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 City Council, a crazy days or other similar promotion organized by the Rapid City Downtown Assoc., 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 one hour before the event begins and ends one 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.

<div align="center">CITY OF RAPID CITY</div>

_____
Mayor

ATTEST:

_____
Finance Officer

(SEAL)

First Reading:
Second Reading:
Published:
Effective: