

ORDINANCE NO. 5888

**AN ORDINANCE TO REGULATE HOOKAH LOUNGES BY ADOPTING
CHAPTER 5.40 OF THE RAPID CITY MUNICIPAL CODE**

WHEREAS, hookah smoking poses a serious potential health hazard to smokers and to others exposed to the smoke emitted; and

WHEREAS, hookah smoke contains toxicants such as carbon monoxide and heavy metals known to cause lung cancer, heart disease, and other diseases; and

WHEREAS, hookah smoke delivers nicotine to its users; and

WHEREAS, hookah smokers are at risk for the same kinds of diseases caused by cigarette smoking, such as oral cancer, lung cancer, stomach cancer, cancer of the esophagus, reduced lung function, and decreased fertility; and

WHEREAS, because of the nature of hookahs, a hookah smoking session may last between 20-80 minutes during which time the smoker may take 50-200 puffs, exposing a smoker to more toxic chemicals over a long period of time than smoking a cigarette; and

WHEREAS, a typical one-hour-long hookah smoking session involves inhaling 100-200 times the volume of smoke inhaled from a single cigarette; and

WHEREAS, because hookah tobacco is sweetened and/or flavored, it appeals to young people and people who may not otherwise use tobacco; and

WHEREAS, the Common Council of the City of Rapid City deems it in the best interests of the City, and deems it in the interest of the public health, safety and welfare of the community, to adopt Chapter 5.40 of the Rapid City Municipal Code to regulate hookah lounges.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City that Chapter 5.40 of the Rapid City Municipal Code is hereby adopted to read as follows:

Chapter 5.40 Hookah Lounges

Section	
5.40.010	Definitions.
5.40.020	Minors prohibited.
5.40.030	Required posting.
5.40.040	Required ventilation system.
5.40.050	Compliance with state law.
5.40.060	License to own or operate a hookah lounge.
5.40.070	Application for license.
5.40.080	Issuance of license.
5.40.090	License fees.

- 5.40.100 Termination and renewal of license.
- 5.40.110 Revocation of license.
- 5.40.120 Transfer of license.
- 5.40.130 Penalty.

5.40.010 Definitions.

For the purposes of interpreting this chapter and in order to carry out the provisions and intentions of this chapter, certain words, terms, and phrases shall have the meaning set forth hereinafter:

- A. ***HOOKAH LOUNGE.*** Any facility or location whose business operation, whether as its primary use or as an ancillary use, is devoted to on-premise hookah use, including but not limited to establishments known as hookah bars, hookah cafes, or hookah parlors.
- B. ***HOOKAH USE.*** The inhaling, exhaling, burning, or heating of a substance containing tobacco or nicotine intended for inhalation after passing the smoke or vapor through an urn of water or some other liquid that cools the smoke or vapor as it is drawn through it, including but not limited to waterpipes, shisha, or naghiles.

5.40.020 Minors prohibited.

Persons under the age of 18 shall be prohibited from entering, working at or patronizing hookah lounges. Hookah lounge owners and operators shall be prohibited from personally soliciting persons under the age of 18 years to patronize a hookah lounge.

5.40.030 Required posting.

- A. A hookah lounge shall post signs on its premises with the following text:
WARNING: Hookah tobacco is dangerous to your health. Using a hookah exposes you to the same toxic chemicals found in cigarette smoke and poses a risk of the same diseases that can be caused by smoking cigarettes.
- B. The warning signs shall have letters no smaller than 3/4 inches in height. The text shall be in a color contrasting with the background so as to be easily readable.
- C. A hookah lounge shall post at least one sign that is visible from the outside of the hookah lounge to a person accessing the main exterior door of the business.
- D. A hookah lounge shall post at least one sign as described above on the interior of the building within three feet of the main exterior door. If a hookah lounge occupies more than 500 square feet, it must post additional interior signs for each additional 500 square feet of space it occupies. All interior signs must be visible to patrons.

5.40.040 Required ventilation system.

Hookah lounges shall provide adequate ventilation for the smoke and/or vapor produced and the heating of coals in accordance with all requirements imposed by the Building Official as provided in Title 15 of this code, by the Fire Department, or as otherwise required by state or federal law as well as this code. At a minimum, the ventilation system shall assure that smoke from the hookah lounge is incapable of migrating into any other portion of the building hosting the hookah lounge or into any other building in the vicinity of the hookah lounge.

5.40.050 Compliance with state law.

Hookah lounges shall be in compliance with all state laws pertaining to smoking in any public place or place of employment and pertaining to the sale or furnishing of tobacco products to minors.

5.40.060 License to own or operate a hookah lounge.

It is a violation of this chapter to own or operate a hookah lounge without first obtaining a license required by this chapter.

5.40.070 Application for license.

- A. An application for a license must be made on a form provided by Rapid City and applicant shall make and file the application in writing with the Finance Officer.
- B. Applicants must be older than 18 years of age.
- C. All applicants must be qualified according to the provisions of this chapter. The application may request and the applicant shall provide the information as to enable the Common Council to determine whether the applicant meets the qualifications established in this chapter. License applications for a first-time applicant will require the applicant's fingerprints. For renewal applications, the Common Council may require the applicant to provide his/her fingerprints.
- D. If a person who wishes to operate a hookah lounge is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a hookah lounge is other than an individual, each individual who has any financial interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.

5.40.080 Issuance of license.

- A. The Common Council shall approve or deny the issuance of a license to the applicant.

B. The Common Council may approve or disapprove the application for a new hookah lounge license depending on whether it deems the applicant a suitable person to hold the license and whether the City considers the proposed location suitable.

C. In reviewing applications, the Common Council shall consider the following criteria, and it may deny an application if it is determined by a preponderance of the evidence that one or more of the following findings is true:

1. An applicant is overdue in payment to Rapid City of taxes, fees, fines or penalties assessed against or imposed upon him or her in relation to any hookah lounge business;
2. An applicant has been denied a license by the Common Council to operate a hookah lounge within the preceding 12 months or whose license to operate a hookah lounge has been revoked within the preceding 12 months;
3. An applicant has been convicted of a felony;
4. An applicant has been convicted of a drug offense, whether a misdemeanor or felony;
5. The license fee required by this chapter has not been paid;
6. The applicant has falsely answered a question or request for information on the application form;
7. The hookah lounge license is to be used to operate a business prohibited by local or state law, statute, rule or regulation or prohibited by a particular provision of this chapter; or
8. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this chapter.

D. All business licenses shall be posted in a conspicuous place at or near the entrance to the hookah lounge so that they may be easily read at any time.

5.40.090 License fees.

Every application for a hookah lounge license (whether for a new license or for renewal of an existing license) submitted to the Rapid City Finance Officer shall be accompanied by a \$200 non-refundable fee. Applicants may also be required to pay additional fees for criminal background checks pursuant to RCMC § 2.20.030.

5.40.100 Termination and renewal of license.

A. The term of the license shall be in accordance with Chapter 5.04 of this code and shall terminate on December 31 in the year for which issued.

B. A licensee wishing to renew a license shall submit an application for license renewal to the Finance Officer at least 90 days before the termination date.

C. An application for license renewal shall be granted upon a finding by the Common Council that the applicant has not been convicted of a felony or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fees as set forth in § 5.40.090.

D. When the Common Council denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the Common Council finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

5.40.110 Revocation of license.

A. The Common Council may revoke a hookah lounge license for any of the following reasons:

1. The owner or operator of the hookah lounge violates any requirement or provision of this chapter;
2. The owner or operator of the hookah lounge is convicted of a felony, or is convicted of any drug offense; or
3. The hookah lounge is not in compliance with any of the conditions of its hookah lounge permit.

B. When the Common Council revokes a hookah lounge license, the revocation shall continue for one year, and the licensee shall not be issued a hookah lounge license for one year from the date the revocation became effective. If, subsequent to revocation, the Common Council finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

5.40.120 Transfer of license.

A licensee shall not transfer his or her license to another, nor shall a licensee operate a hookah lounge under the authority of a license at any place other than the address designated in the application.

5.40.130 Penalty.

Any person violating any portion of this chapter is subject to the general penalty set out in § 1.12.010 of this Code.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)

First Reading:
Second Reading:
Published:
Effective: