

ORDINANCE NO. 1293

AN ORDINANCE AMENDING CHAPTER 22 OF THE TOWN OF SILVER CITY MUNICIPAL CODE, CREATING A NEW SECTION 22-30 REGARDING THE USE OF FACE COVERINGS BY EMPLOYEES AND CUSTOMERS WHEN INSIDE PLACES OF BUSINESS AND BY ALL MEMBERS OF THE PUBLIC WHEN IN PUBLIC PLACES

Sponsored by Councilor Cynthia Ann Bettison

WHEREAS, the Town Council is aware that a pandemic caused by a highly infectious virus, commonly referenced as COVID-19 has spread throughout the world and is causing great harm and loss of life in the State of New Mexico, including the Town of Silver City; and

WHEREAS, the Town Council finds that recommendations of the Centers for Disease Control and Prevention and many other health agencies stating that the wearing of face coverings by the public lessens the spread of the virus, thus lessening the number of persons likely to become infected; and

WHEREAS, although there is substantial public compliance with Orders of the Governor and the State Department of Health regarding the wearing of facial coverings, the Town Council finds that further regulation at the local level is necessary for the health, safety and welfare of the Town and its inhabitants;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF SILVER CITY, GRANT COUNTY, NEW MEXICO, that:

Chapter 22 of the Town of Silver City Municipal Code is amended to include a new subsection 22-30 which shall state as follows:

Section 22-30

(A) **Short title.**

This section may be cited as the “Face Covering in Public Act”

(B) Definitions.

Face covering means a cloth, fabric, or other soft and permeable material (without holes or exhalation valves) that covers both the mouth and nose and includes surgical masks, N-95 respirators, handmade masks, and bandanas.

(C) Face covering requirement.

1. The use of a face covering is required by every person within the boundaries of the Town of Silver City as detailed below. Every person over the age of thirteen (13) must wear a face covering when:

- a) inside a building open to the public, including gyms, meditation centers, churches, medical and dental offices, other facilities where members of the public tend to congregate;
- b) waiting to enter a building open to the public;
- c) interacting with other people in outdoor space, including but not limited to curbside pickup, delivery, and service calls;
- d) when engaging in business activities in private space (for example, house showings, indoor service calls for appliances, tow trucks, etc.);
- e) utilizing public or commercial private transportation; or
- f) walking or running in public where maintaining a distance of six (6) feet between other members of the public at all times is not possible;
- g) during outdoor physical activities such as exercising and sports where maintaining a distance of six (6) feet between other members of the public at all times is not possible.

2. Face coverings are not required in the following circumstances:

- a) in personal vehicles;
- b) when a person is alone in enclosed spaces;
- c) when a person is alone or only with other household members;
- d) while drinking or eating;
- e) while swimming;
- f) when wearing a face covering causes or aggravates a health condition. Employees of the public and private employers for whom wearing a face covering causes or aggravates a health condition must document the condition with their employer;
- g) While smoking or vaping, when a distance of at least six (6) feet from other members of the public at all times can be maintained. This exception shall be exercised subject to all prohibitions and/or conditions otherwise provided for by local and state laws regarding smoking in or near public places;
- h) Additional exceptions or restrictions as may later be authorized by Public Health Orders of the Governor and/or Department of Health shall be incorporated herein this Ordinance by reference.

(D) Penalties.

1. A written warning issued by a police or code enforcement person for a first violation. The police department shall keep and maintain a copy of said written warning.

2. A fine not exceeding fifty (\$50) for a second violation within three (3) months, and a fine not less than \$100 for each subsequent violation.

(E) Automatic Rescission of Ordinance.

This Ordinance shall terminate without further action of the Town Council upon the withdrawal or termination of the Governor's Public Health Orders mandating the use of

face coverings when in public, whether by action of the Governor, the New Mexico Department of Public Health, or a binding decision of the State of New Mexico Supreme Court. This termination shall not, however, act as a bar to the prosecution of cases arising out of violations of this Ordinance prior to the termination mentioned herein.

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PASSED, ADOPTED AND APPROVED by vote of the Council of the Town of Silver City, Grant County, New Mexico, this 25th day of August, 2020.

TOWN OF SILVER CITY

(Seal)

/s/ _____
Ken Ladner, Mayor

Attest:

/s/ _____
Ann L. Mackie, Town Clerk