

ORDINANCE NO. 1041

AN EMERGENCY ORDINANCE TO ADDRESS A PUBLIC HEALTH CRISIS BY IMPLEMENTING CERTAIN MEASURES WHICH HAVE BEEN DEEMED NECESSARY TO SLOW THE COMMUNITY SPREAD OF THE VIRUS RESPONSIBLE FOR THE COVID-19 DISEASE

WHEREAS, the City of Fort Pierre has the authority pursuant to SDCL §§ 9-29-1 and 9-32-1 to adopt ordinances for the purpose of promoting the health, safety, and general welfare of the community, and to do what may be necessary or expedient for the promotion of health or the suppression of disease; and

WHEREAS, the City Council, pursuant to Fort Pierre City Home Rule Charter, Sec. 2.14, may adopt an emergency ordinance affecting life, health, property, or the public peace by an affirmative vote of at least two thirds (2/3) of its members, which ordinance shall automatically stand repealed as of the 61st day following the date on which it was adopted unless otherwise provided in the ordinance; and

WHEREAS, an outbreak of the COVID-19 disease, which is caused by the novel coronavirus SARS-CoV-2 (the “virus”), has been confirmed in more than 100 countries, including the United States; and

WHEREAS, COVID-19 is a severe respiratory disease caused by the 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, virus infection 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 the virus causing the COVID-19 disease a public health emergency; and

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency in response to the global pandemic of COVID-19; and

WHEREAS, on the same day, Governor Kristi Noem issued Executive Order 2020-04 declaring a State of Emergency in State of South Dakota due to the COVID-19 pandemic; and

WHEREAS, on April 6, 2020, the City of Fort Pierre passed Resolution No. 2020-10, declaring an emergency concerning the pandemic outbreak of the novel Coronavirus (COVID-19) and providing for responsive measures related to the operations of the City and the protection of public health; and

WHEREAS, cases of infection from the virus causing the COVID-19 disease have been confirmed in the State of South Dakota, including confirmed cases within close proximity of Stanley County, and cases of community spread are identified; and

WHEREAS, the CDC and health experts have concluded that social distancing is necessary to slow the spread of the virus causing the COVID-19 disease; and

WHEREAS, social distancing is a method of slowing down or stopping the spread of a contagious disease by reducing the probability of contact between infected persons and those not infected in order to minimize disease transmission; and

WHEREAS, the CDC issued guidance to state and local governments and all citizens recommending social distancing steps to prevent community spread and guard against the COVID-19 outbreak; and

WHEREAS, many states and communities across the country implemented the CDC recommendations by ordering the closure of bars, restaurants, food courts, gyms, and other indoor and outdoor venues where people congregate until the public health emergency is over; and

WHEREAS, many Fort Pierre residents, healthcare organizations, businesses, and religious organizations voluntarily instituted social distancing measures recommended by the CDC but social distancing is not being practiced by all persons within the City; and

WHEREAS, the failure to successfully implement social distancing will likely result in higher numbers of infected individuals and has the potential to overwhelm the capacity of the area's health care providers; and

WHEREAS, it is important that control measures be taken to reduce or slow the spread of the virus in order to protect the health and safety of the City's residents, especially seniors and those with underlying health conditions that make them particularly vulnerable to the COVID-19 disease; and

WHEREAS, with the CDC guidance, Governor Noem issued Executive Order 2020-08 on March 23, 2020 and Executive Order 2020-12 on April 6, 2020, providing social distancing directives to every South Dakotan, any enclosed retail business that promotes social gatherings, all employers, all healthcare organizations, and all local and municipal governments; and

WHEREAS, the City Council, exercising its authority pursuant to Fort Pierre City Home Rule Charter, Sec. 2.14, finds that the rules and regulations contained within this ordinance are necessary for the prevention and spread of the contagious virus causing the deadly COVID-19 disease within the City of Fort Pierre.

BE IT ORDAINED BY THE CITY OF FORT PIERRE as follows:

1. Effective 12:01 a.m. on April 10, 2020, any enclosed retail business operating as a bar, restaurant, brewery, café, casino, coffee shop, recreational or athletic facility, health club, entertainment venue, or other similar place for public gatherings shall (a) not permit ten (10) or more people to be in the enclosed facility where there is not sufficient space to have physical separation of at least six feet between persons who are not immediate family members or members of the same household, and (b) shall discontinue business practices incompatible with CDC hygiene practices designed to reduce the likelihood of spreading the COVID-19 disease. These businesses shall adopt and promote practices that do not involve public gatherings in an enclosed space, including but not limited to takeout, delivery, drive-through, curbside service, and off-site services. Any enclosed retail business that promotes public gatherings shall implement procedures to ensure social distancing and operate in compliance with federal and state health guidance in order to prevent the spread of the COVID-19 disease.
2. Effective 12:01 a.m. on April 10, 2020, any public gathering of ten (10) or more people is prohibited (a) where there is not sufficient space to have physical separation of at least six feet between persons who are not immediate family members or members of the same household, or (b) where CDC hygiene practices to reduce the likelihood of spreading the COVID-19 disease are not maintained.
3. The prohibitions in this order do not apply to the following:
 - (a) Places of public accommodation that offer food and beverages for off-site consumption, including grocery stores, markets, retail stores that offer food, convenience stores, pharmacies, drug stores, and food pantries, other than any portion of such business which would be subject to the requirements of Para. 1.

- (b) Health care facilities, residential care facilities, congregate care facilities, licensed day cares, and correctional facilities.
- (c) Crisis shelters or other similar institutions.
- (d) Any emergency facility necessary for the response to the current public health emergency or any other community emergency or disaster.

BE IT FURTHER ORDAINED, that this ordinance shall remain in effect for a period of sixty (60) days, at which time it shall be automatically repealed unless specifically reenacted for an additional period of time by the City Council. Any dates identified in this Ordinance for closures to automatically end may be adjusted at any time within the sixty (60) day period covered by this ordinance by a resolution of the City Council.

BE IT FURTHER ORDAINED, that a violation of this ordinance shall be a Class 2 misdemeanor. Each day a violation of this ordinance occurs is considered a separate offense.

BE IT FURTHER ORDAINED, that, pursuant to SDCL § 9-19-13, this ordinance is necessary for the immediate preservation of the public peace, health, or safety and shall become effective immediately upon passage.

First Reading: April 9, 2020
Second Reading: _____
Final Adoption: April 9, 2020
Published: _____
Effective Date: April 10, 2020

Gloria Hanson, Mayor

ATTEST:

Roxanne Heezen, Finance Officer