

ORDINANCE NO. 2020-03

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

WHEREAS, the City of Harrisburg (the “City”) has the authority pursuant to SDCL 9-29-1 and 9-32-1 to pass ordinances for the purpose of promoting the health, safety, morals 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, 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 as 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 which declared a state of emergency to exist in the State of South Dakota in response to the spread of the virus causing the COVID-19 disease; and

WHEREAS, cases of infection from the virus causing the COVID-19 disease have been confirmed in the State of South Dakota, and cases of community transmission are reasonably suspected to exist; and

WHEREAS, the CDC and health experts have recommended social distancing 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, in response to the need to implement social distancing, all schools in the State of South Dakota have been closed for at least two weeks; and

WHEREAS, on March 16th, the White House issued guidance recommending that gatherings of more than ten (10) people be avoided and that people avoid eating or drinking at bars, restaurants, and food courts; and

WHEREAS, the guidance issued by the White House further recommended that in states with evidence of community transmission, bars, restaurants, food courts, gyms, and other indoor and outdoor venues where people congregate should be closed; and

WHEREAS, many states and communities across the country have already implemented the White House recommendations by ordering all bars, restaurants, food courts, gyms, and other indoor and outdoor venues where people congregate be closed until the public health emergency is over; 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 City's and surrounding communities' health care providers; and

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

WHEREAS, on March 23, 2020, Governor Kristi Noem, issued Executive Order 2020-08 outlining guidelines for all South Dakotans, for-profit and not-for-profit employers, enclosed retail businesses that promote public gatherings, and healthcare organizations as it relates to COVID-19 in the state of South Dakota (the "Executive Order"); and

WHEREASE, the City Council of the City of Harrisburg, in support of the directives of the Executive Order and CDC guidance as it relates to COVID-19 in the state of South Dakota, has found 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.

NOW THEREFORE, BE IT ORDAINED, by the Harrisburg City Council that:

Section 1: That Regulations relating to COVID-19 are hereby adopted as follows:

I. Definitions.

1. "Social distancing" as used herein shall mean separation of at least 6' between individuals.

2. “Enclosed retail business that promotes public gathering” as used herein shall mean any enclosed facility operation as a bar, restaurant, brewery, café, casino, coffee shop, recreational or athletic facility, health club, or entertainment venue. Such term shall further include any parking lot and/or patio or other outdoor seating area for such facility.

3. “Patron” as used herein shall refer to a customer of the business as defined in subparagraph 2. Above, and does not include employees or staff of such business.

II. City-Owned Property:

1. The following City buildings and venues will remain closed to the general public:
 - a. City Hall.
 - b. Public Parks.
 - c. American Legion Hall
 - d. Public Works Facilities

III. Private Businesses.

1. Any enclosed retail business that promotes public gatherings shall modify business practices in order to ensure that not more than ten patrons are on the premises for on-site use of the services and/or consumption of the goods at any given time. Such businesses are encouraged to consider utilizing business models that do not involve public gatherings, including takeout, delivery, drive-thru, curbside services, and off-site services.

- a. The restrictions set forth in the above paragraph do not apply to the following:
 - (i) Places of public accommodation that offer food and beverages for off-site consumption, including grocery stores, markets, retail and service businesses 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 paragraph (1).
 - (ii) Hardware and supply stores.
 - (iii) Room service in hotels.
 - (iv) Health care facilities, residential care facilities, congregate care facilities, and correctional facilities.
 - (v) Childcare facilities;
 - (vi) Crisis shelters, homeless shelters, churches, soup kitchens, or other similar institutions.
 - (vii) Any emergency facility necessary for the response to the current public health emergency or any other community emergency or disaster.

(viii) Official meetings of the city, schools, county, state, or federal government.

(ix) Any other business type or service established by resolution of the Harrisburg City Council.

The business and entities identified in Section III(1)(a) above shall take all reasonable measures to ensure Social Distancing and sanitation is being utilized as is feasible, and shall take all reasonable measures to comply with federal and state health guidelines in order to prevent the spread of the virus causing COVID-10. Such businesses are further encouraged to consider, to the extent applicable and feasible, providing for special access periods for populations particularly vulnerable to COVID-19.

b. Nothing herein shall act or be interpreted as authorization for any off-sale alcoholic beverage sales by any licensee in violation of their respective license as defined in SDCL Title 35.

1. The restrictions set forth above do not prohibit an owner, employee, contractor, vendor, or supplier of the above-addressed entities from entering, exiting, using, or occupying that place of business in their professional capacity, so long as procedures are implemented to ensure social distancing to the fullest extent reasonably possible.
2. The business entity, owner, and supervising manager of any business that refuses to comply with these regulations as adopted by the City Council shall be deemed to be in violation of the ordinance.

3. All other employers, both for profit and not for profit, within the City of Harrisburg are used and encouraged to:

- a. Implement procedures to ensure social distancing between persons as is feasible and to ensure the business or entity operates in compliance with federal and state guidelines to prevent the spread of the virus causing COVID-19;
- b. Allow employees and staff to telework, if possible;
- c. Limit unnecessary work gatherings;
- d. Eliminate nonessential travel; and
- e. Consider regular health checks including guidance from the CDC for COVID-19 screening, if possible.

IV. Citizens of Harrisburg:

1. All individuals within the City of Harrisburg are used and encouraged to:
 - a. Review and practice the recommended CDC hygiene practices designed to stop the spread of the virus causing COVID-19;

- b. Known the signs and symptoms of COVID-19, call a health care provider for instructions if experiencing symptoms of COVID-19, and stay at home if sick;
- c. Understand that those who are particularly vulnerable to COVID-19, including those over the age of 60 and those suffering from respiratory or cardiac conditions, should take extra precautions and remain home, if possible;
- d. Implement social distancing measures and support businesses that are adjusting their business model to reduce the spread of the virus causing COVID-19; and
- e. Assist those who work in essential jobs such as emergency personnel, medical professionals, and law enforcement.

Section 2: This ordinance shall remain effective until May 1, 2020, unless extended, amended, or terminated by Resolution of the Harrisburg City Council.

Section 3: Anyone in violation of this ordinance is subject to the general penalty provision listed in Chapter 12.0101 of the Municipal Ordinances, City of Harrisburg, South Dakota. In addition to the penalties provided for in Chapter 12.0101, any person and/or business entity violating the provision of this emergency ordinance may be enjoined from continuing the violation.

Notwithstanding the previous sentence, any violation of this emergency ordinance by any business licensed under SDCL Title 35 and Chapter 4.03 of the Municipal Ordinances, City of Harrisburg, South Dakota, following a hearing as required by SDCL 35-2-11.1, may result in a recommendation to the South Dakota Secretary of Revenue that such business's license be suspended or revoked for such violation. In the event that the hearing requirement of SDCL 35-2-11.1 is waived or otherwise suspended pursuant to gubernatorial action pursuant to SDCL 34-48-5, then such recommendation may be made without a hearing. Each day a violation of this ordinance is allowed to occur is considered a separate offense.

Section 4: This Ordinance shall apply to all locations within the city limits of Harrisburg.

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

Dated this 7th day of April, 2020.

CITY OF HARRISBURG, SOUTH DAKOTA

Julie Burke – Van Luvanee, Mayor

ATTEST:

Mary McClung, Finance Officer

(SEAL)

First Reading: April 1, 2020

Second Reading & Adoption: April 7, 2020

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