

1st Reading: \_\_\_\_\_  
2nd Reading: \_\_\_\_\_  
Date Adopted: \_\_\_\_\_  
Date Published: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, ESTABLISHING A “STAY AT HOME” ORDER FOR THE CITY OF SIOUX FALLS FOR CONTAINMENT OF THE COVID-19 PANDEMIC.

WHEREAS, in December 2019, the novel coronavirus (COVID-19) was first identified and since that time has spread throughout the world, including to every state in the United States; and

WHEREAS, the first cases of COVID-19 appeared in the United States in January 2020; and

WHEREAS, the risk of community spread of COVID-19 has grown exponentially since then; and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a pandemic; and

WHEREAS, on March 12, 2020, the Mayor issued Executive Order No. 218 declaring an emergency to address the novel Coronavirus COVID-19; and

WHEREAS, on March 13, 2020, the Governor declared an emergency in the state of South Dakota in response to the COVID-19 pandemic; and

WHEREAS, on March 23, 2020, the Governor issued Executive Order 2020-08 setting forth guidelines and recommendations regarding personal, business, and healthcare precautions to be taken in response to the COVID-19 pandemic; and

WHEREAS, on March 24, 2020, the Governor announced that she recommended that all K-12 schools in South Dakota remain closed until May 1, 2020; and

WHEREAS, on April 6, 2020, the Governor announced that K-12 schools should remain closed through the remainder of the school year; and

WHEREAS, on April 6, 2020, the Governor issued Executive Order 2020-12 setting forth requirements regarding personal, business, and healthcare precautions to be taken in response to the COVID-19 pandemic, and Executive Order 2020-13 requiring “Vulnerable Individuals” in Minnehaha and Lincoln Counties to stay at home except when working in critical infrastructure jobs and/or conducting essential errands; and

WHEREAS, on April 10, 2020, the Secretary of the Department of Health for the State of South Dakota, with the consent and authorization of the Governor, declared a public health emergency to exist within Minnehaha County, South Dakota; and

WHEREAS, COVID-19 is continuing to spread across the community with national, state, and local health authorities confirming that person-to-person contact is creating a public health danger; and

WHEREAS, the risk of community spread of COVID-19 through person-to-person contact is magnified when people congregate together; and

WHEREAS, if COVID-19 continues to spread at the current rate, the available medical facilities will be stressed and eventually overloaded with critical patients; and

WHEREAS, as of 12 noon on April 13, 2020, there have been 654 confirmed cases of COVID-19 within Minnehaha County, 578 of which are active (i.e., the individual is not yet considered to have recovered); and

WHEREAS, as of 12 noon on April 13, 2020, there have been 50 confirmed cases of COVID-19 within Lincoln County, 29 of which are active; and

WHEREAS, as of 12 noon on April 13, 2020, there have been 868 confirmed cases of COVID-19 within the state of South Dakota, 661 of which are active; and

WHEREAS, the Centers for Disease Control and Prevention (“CDC”) recommend certain actions for the preparation and mitigation of community transmission of COVID-19, including, but not limited to, social distancing measures and restricting the size of gatherings; and

WHEREAS, it is critical that all persons located in the City of Sioux Falls, South Dakota, whether residents or visitors, shelter at home, unless providing an essential service, seeking health care, engaging in life sustaining activities or activities that support life sustaining activities; and

WHEREAS, it is critical that all persons engage in all available health measures, including hand washing, maintaining a safe distance of at least six feet from other people in public, isolating themselves if ill, only purchasing supplies necessary for personal use, and remaining calm; and

WHEREAS, we are a caring, noble community able to rise to the challenge of these times as we come together as a community and care for one another's life and well-being above our own personal comfort or convenience; and

WHEREAS, these measures are necessary in order to protect, preserve, and promote the general health, safety, and welfare of the public; and

WHEREAS, SDCL 9-32-1 confers upon municipalities the power to do what may be necessary or expedient for the promotion of health or the suppression of disease; and

WHEREAS, the City of Sioux Falls has established a Board of Health and prescribed its powers pursuant to SDCL 9-32-2; and

WHEREAS, Section 92.053 of the Code of Ordinances of the City of Sioux Falls, SD, confers upon the Sioux Falls Board of Health full power to take all steps and use all measures necessary to promote the general cleanliness and healthfulness of the city and the general health and well-being of the people and community served, and to adopt any regulations, rules, or measures deemed advisable to carry out such charges; and

WHEREAS, the Sioux Falls Board of Health convened an emergency meeting on April 15, 2020 and unanimously recommends approval of the “Stay at Home” Regulations;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF SIOUX FALLS, SD:

**Section 1: Stay at Home Mandated**

Effective immediately upon publication on April 24, 2020, residents of and visitors to Sioux Falls shall stay at home or a place of residence if possible, except to work in a critical infrastructure sector job or to conduct essential activities, both as defined herein.

A “critical infrastructure sector job” is one listed below or in the attachment to the U.S. Department of Homeland Security, Cybersecurity and Infrastructure Security Agency (CISA) Memorandum on Identification of Essential Critical Workers During COVID-19 Response, updated March 28, 2020, attached hereto as Exhibit A and incorporated herein by reference. The following are “critical infrastructure sector jobs” for purposes of this Ordinance:

- Construction workers who support the construction, operation, inspection, and maintenance of construction sites and construction projects (including housing construction)
- Workers such as plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, construction material sources, and essential operation of construction sites and construction projects
- Professional services, such as legal or accounting services, insurance services, real estate services (including appraisal, home inspection, and title services), and veterinary services, inclusive of support staff.
- Employees of biotech companies
- Employees of financial institutions such as banks, credit unions, and insurance companies

For purposes of this Ordinance, homes or places of residence include apartments, hotels, motels, shared rental units, dormitories, shelters, long-term care facilities, and similar facilities where a person may presently reside.

## **Section 2: Prohibition on Non-Essential Activities; Exception for Essential Activities; and Definition of Essential Activities**

Non-essential activities are prohibited during the effective dates of this Ordinance, including any extensions thereof. Non-essential activities are all activities not listed as essential.

Essential activities, and persons engaged in or pursuing essential activities, are an exception to the prohibition set forth herein.

Essential activities are:

- 1) working in a critical infrastructure sector job, or traveling to or from such job;
- 2) complying with an order of law enforcement or court, or for legally-mandated government purposes;
- 3) conducting essential errands (including, by way of example and not limitation, obtaining medication, groceries, gasoline, and personal hygiene items) for themselves and their family or household members or persons who are unable to or who should not leave their home (e.g., Vulnerable Individuals who are either adults over the age of sixty-five (65) and people of any age who have serious underlying medical conditions), or to deliver those services or supplies to others;
- 4) engaging in activities, performing tasks, or obtaining supplies essential to their health and safety, or to the health and safety of their family, those living in their residence, or pets;
- 5) visiting a healthcare or behavior healthcare professional. Individuals should rely on telehealth options whenever feasible;
- 6) obtaining supplies needed to work from home;
- 7) engaging in the minimum necessary activities to maintain the value of their business's inventory, ensure security, process payroll and employee benefits, or other related functions for those business that are not part of the critical infrastructure sector;
- 8) engaging in outdoor activity, including visiting public parks, (for example, walking, biking, hiking, running, tennis or golfing), provided that individuals, except those from the same residence, must comply with physical distancing requirements of six feet and any applicable orders from the municipality where the park is located;
- 9) engaging in drives with other members of one's household for the purpose of leisure or to travel to or from an essential activity;
- 10) obtaining food or beverage by means of drive-through or carryout;
- 11) caring for or transporting a family member in another residence, including transporting children pursuant to an existing parent time schedule or for other visitations pertaining to a child in need of protective services;
- 12) transporting children or dependents for childcare purposes as necessary to allow the parent or caregiver to work in a critical infrastructure job;
- 13) relocating to another residence;
- 14) leaving their home or residence to stay at a safe alternative location in the event their home or residence is or becomes unsafe, including without limitation, victims of domestic violence;
- 15) traveling to and from educational institutions for purposes of receiving materials for distance learning, for receiving meals, or any other related services.

### **Section 3: Businesses**

All business are encouraged to remain open, and to the greatest extent feasible, all businesses shall comply with physical distancing requirements, including, but not limited to, maintaining six feet of physical distance between people, both employees and the general public; using technology whenever possible to avoid meeting in person, including virtual meetings and teleconference; off-setting shift hours and/or days; ensuring employees exhibiting symptoms of COVID-19 are excluded from the workplace; implementing a policy of no longer shaking hands; and requiring employees to conduct work remotely where feasible.

### **Section 4: Quarantine**

If someone has tested positive for COVID-19, all members of that person's household shall quarantine at home unless otherwise directed by a medical professional or as necessary to obtain emergency care or services. Members of the household should not go to work, school, or any other community function for a period of 14 days, or such other period as may be recommended by the CDC or a medical professional.

### **Section 5: Homelessness**

Individuals experiencing homelessness are exempt from the requirements of this Ordinance. Individuals experiencing homelessness are strongly urged to practice appropriate social distancing from other people.

### **Section 6: Prior Ordinances**

This Ordinance supplements all prior ordinances. Unless specifically repealed, all prior ordinances remain in effect. Unless specifically repealed, this Ordinance remains in effect even if subsequent ordinances are issued. In case of conflict between ordinances, proclamations, or declarations, mandatory language prevails over recommended actions. If there is a conflict in mandatory language between orders, proclamations, or declarations, the latest in time prevails.

### **Section 7: Effective Date and Ending Date**

This Ordinance is effective immediately upon publication on April 24, 2020 through 11:59 p.m. on May 8, 2020, unless extended or earlier terminated.

### **Section 8: Enforcement and Penalty**

Anyone in violation of this ordinance is subject to the general penalty provision listed in Section 10.999 of the Code of Ordinances, Sioux Falls, SD. In addition to the penalties provided for in Section 10.999, 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 Title XI, Chapter 111 of the Code of Ordinances of Sioux Falls, SD, shall, following a hearing as required by SDCL 35-2-11.1, result in a mandatory 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 34-48A-5, then such recommendation will be made without a hearing. Each day a violation of this ordinance is allowed to occur is considered a separate offense.

**Section 9: Geographic Area of Application**

This Ordinance shall apply to all locations within the city limits of Sioux Falls as defined in Section 10.003 of the Code of Ordinances of Sioux Falls, SD.

**Section 10: Severability**

If any provision of this Ordinance or its application to any person, business, situation, or circumstance is held to be invalid, the remainder of the Ordinance, including the application of the challenged portion in a different situation or circumstance or as applied to a different person or business, shall not be affected and shall continue in full force and effect. Each sentence, clause, section, article, or provision of this Ordinance is severable.

**Section 11: Immediate Effect**

This ordinance is hereby declared necessary for the immediate preservation of the public health and shall become effective immediately upon its passage and publication pursuant to SDCL 9-19-13.

Date adopted: \_\_\_\_\_.

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Paul TenHaken, Mayor

ATTEST:

\_\_\_\_\_  
Thomas Greco, City Clerk