

1st Reading: _____
2nd Reading: _____
Date Adopted: _____
Date Published: _____
Effective Date: _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, EXTENDING THE EFFECTIVE DATE OF ORDINANCE NO. 29-20 ADOPTING THE SIOUX FALLS BOARD OF HEALTH SECOND AMENDED AND RESTATED REGULATIONS PERTAINING TO THE NOVEL CORONAVIRUS (COVID-19).

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 health care precautions to be taken in response to the COVID-19 pandemic; and

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

WHEREAS, on March 24, 2020, the Sioux Falls School District has closed all K-12 schools through May 1, 2020; and

WHEREAS, as of 12 noon on March 31, 2020, there are 31 confirmed cases of COVID-19 within Minnehaha County; and

WHEREAS, as of 12 noon on March 31, 2020, there are 5 confirmed case of COVID-19 within Lincoln County; and

WHEREAS, as of 12 noon on March 31, 2020, there are 108 confirmed cases of COVID-19 within the state of South Dakota; and

WHEREAS, as of 12 noon on March 31, 2020, there is minimal/moderate community spread of COVID-19 in Lincoln County and substantial community spread of COVID-19 in Minnehaha County; 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, 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 March 26, 2020, and unanimously recommends approval of the Second Amended and Restated Regulations relating to COVID-19;

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

Section 1: That the Second Amended and Restated 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 operating 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. Denny Sanford PREMIER Center;
 - b. Sioux Falls Convention Center;
 - c. Sioux Falls Arena;
 - d. Orpheum Theater;
 - e. Washington Pavilion of Arts and Science
 - f. Midco® Aquatic Center;

- g. Great Plains Zoo & Delbridge Museum;
 - h. Mabel and Judy Jasper Educational Center located at the Mary Jo Wegner Arboretum and East Sioux Falls Historic Site;
 - i. Falls Park Visitor Center;
 - j. City Hall, excluding the Mayor's Office; and
 - k. City Center Administration Building.
2. Carnegie Hall will continue to be used for public meetings, but will be closed to the public when a public meeting is not in session. The public is encouraged to watch public gatherings remotely in order to allow for proper social distancing as recommended by the Centers for Disease Control and Prevention.
 3. The Sioux Falls community centers shall remain closed until the Sioux Falls School District resumes classes.

III. Private Businesses:

1. Any enclosed retail business that promotes public gathering 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 service, and off-site services.
 - a. The restrictions set forth in the above paragraph shall not apply to the following:
 - i. Health care facilities, residential care facilities, congregate care facilities, and correctional facilities;
 - ii. Childcare facilities;
 - iii. Businesses that offer food and beverages solely for off-site consumption, including grocery stores, markets, convenience stores, pharmacies, drug stores, and food pantries, other than the portion of such businesses that are designed and intended for seated, on-site consumption;
 - iv. Hotel/motel room service;
 - v. Airport concessionaires;
 - vi. Crisis shelters, homeless shelters, churches, soup kitchens, or other similar institutions;
 - vii. Traditional golf courses, but any bar or restaurant associated with a golf course shall abide by the above restrictions;
 - viii. Any emergency facility necessary for the response to the current COVID-19 emergency or any other community emergency or disaster.

The businesses and entities identified in this Section III(1)(a) shall take all reasonable measures to ensure social distancing and sanitation is being utilized as is feasible, and comply with federal and state health guidelines in order to prevent the spread of the virus causing COVID-19. 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.
2. 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 full extent reasonably possible.
3. The business entity, owner, and supervising manager of any business that refuses to comply with these regulations as adopted by ordinance by the city council shall be deemed to be in violation of the ordinance.
4. All other employers, both for profit and not for profit, within the city of Sioux Falls are urged 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 Sioux Falls:

1. All individuals within the city of Sioux Falls are urged and encouraged to:
 - a. Review and practice the recommended CDC hygiene practices designed to stop the spread of the virus causing COVID-19;
 - b. Know 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 15, 2020, unless extended, amended, or terminated by ordinance.

Section 3. 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 4. Ordinances 26-20, 27-20, and 28-20 and all prior resolutions or ordinances which conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 5. 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 6. 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: _____.

Paul TenHaken, Mayor

ATTEST:

Thomas Greco, City Clerk

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