

**ORDINANCE NO. 2020-01**

**COVID-19 TEMPORARY EMERGENCY ORDINANCE NO. #1**

**A TEMPORARY 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**, Hand County has the authority pursuant to SDCL 7-18A-2 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 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**, Governor Kristi Noem thereafter issued Executive Order 2020-08 on March 23, 2020, ordering and directing South Dakotans to take specific actions to reduce the spread of COVID-19; 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 16<sup>th</sup>, the CDC and 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 CDC and 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 CDC and 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 area's 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 County's residents, especially for seniors and those with underlying health conditions that make them particularly vulnerable to the COVID-19 disease.

**NOW THEREFORE, BE IT ORDAINED**, by the Hand County Board of Commissioners that:

(1) Effective at 12:00 a.m. on Wednesday, March 25, 2020, all restaurants, coffee houses, bars, convenience stores, dance studios, cafes, and other similar places of public accommodation offering food and beverages for on-site consumption, including any alcohol licensees with on-sale privileges, are closed to on-site/on-sale patrons. These businesses may continue to operate in order to provide take-out, delivery, curbside service, and drive-thru service. Any business continuing to operate in order to provide off-site service should implement procedures to ensure social distancing and operate in compliance with federal and state health guidance in order to prevent the spread of the virus causing the COVID-19 disease. The list of the businesses types closed by this ordinance may be increased or modified by resolution of the Hand County Board of Commissioners.

(2) Effective at 12:00 a.m. on March 25, 2020, all churches, recreational facilities, athletic facilities or entertainment venues are directed to close and cease operations, until further notice or action of the Board.

(3) The prohibitions and closures in this order do not apply to the following businesses:

a. Places of public accommodation that offer food and beverages for off-site consumption, including grocery stores, food markets, retail and service businesses in which less than ten (10) people are gathered or permitted to gather in the facility, pharmacies, drug stores, and food pantries, other than any portion of such business which would be subject to the requirements of paragraph #1.

b. Health care facilities, residential care facilities, congregate care facilities, and correctional facilities.

c. Municipal Airport

d. Any emergency facilities necessary for the response to the current public health emergency or any other community emergency or disaster.

e. Any other business type or service established by resolution of the Hand County Board of Commissioners.

(4) If the Hand County Board of Commissioners receives a recommendation from the Hand County Emergency Manager, it may pass a resolution limiting the size of any communal gathering as defined herein and prohibit any communal gathering in excess thereof for a period of time set forth in such resolution not to exceed the period of time this ordinance remains in effect, which prohibition shall be governed by the following terms:

- (a) For purposes of this ordinance, a "communal gathering" is any indoor or outdoor gathering of people, subject to the exceptions and clarifications below, that brings together or is likely to bring two or more persons at the same time in a single room or other single confined or enclosed space, including, but not limited to an office space or similar confined place of employment, a single family residence, or a residential apartment unit.
- (b) For purposes of this ordinance, a "communal gathering" does not include larger gatherings in the following locations, so long as people take care not be within arm's length of one another for extended periods:
  - (i) public parks, sidewalks, and streets;
  - (ii) parking lots and common areas of any hotel, office building or residential apartment buildings;
  - (iii) grocery stores, shopping malls, manufacturing facilities, or other retail or business establishments where larger numbers of people may be present, but where it is unusual for people to be within arm's length of one another for extended periods;
  - (iv) hospitals, mental health or substance abuse treatment facilities, and medical clinics and facilities; and
  - (v) Any other location established by resolution of the Hand County Board of Commissioners.
- (c) A resolution limiting the size of a communal gathering passed by the Hand County Board of Commissioners in accordance with this ordinance shall be deemed effective immediately upon its publication.
- (d) Each person participating in any communal gathering that violates a size restriction established by resolution of the Hand County Board of Commissioners in accordance with this ordinance shall be deemed to be in violation of this ordinance.

(5) If the Hand County Board of Commissioners receives a recommendation from the Hand County Emergency Manager, it may pass a resolution requiring that all non-essential businesses within the County must close in-office or on-site personnel functions and cease all in-person customer contact for a period of time set forth in such resolution not to exceed the period of time this ordinance remains in effect, which prohibition shall be governed by the following terms:

- (a) For purposes of this Ordinance, an "Essential Business" is not governed or limited by this a restriction. An "Essential Business" means:
  - (i) Essential Health Care Operations, Including, research and laboratory services, hospitals, walk-in-care health facilities, veterinary and livestock services, elder care, medical equipment supply providers and distribution, home health care workers or aides for the elderly, physicians, emergency dental, nursing homes, or residential health care facilities or congregate care facilities
  - (ii) Essential Infrastructure, Including all utility providers, fuel supply and transmission, public water and wastewater, solid waste transfer station, telecommunications facilities and data centers, airports, transportation infrastructure such as bus, rail, or for-hire vehicles, garages, hotels, and places of accommodation
  - (iii) Manufacturing;

- (iv) Essential Retail, Including grocery stores, pharmacies, convenience stores, gas stations, take-out/delivery restaurant service, hardware and building material stores;
  - (v). Essential Services, Including solid waste and recycling collection, processing and disposal, mail and shipping services, laundromats, building cleaning and maintenance, child care services, auto repair, warehouse/distribution and fulfillment, funeral homes, crematoriums and cemeteries, storage for essential businesses, animal shelters, and Information Technology (IT) services providing support to Essential Business;
  - (vi) News Media;
  - (vii) Financial Institutions, Including banks, insurance agencies, brokerage firms, payroll and bookkeeping services, tax preparation and accounting services, and services related to financial markets
  - (viii) Providers of Basic Necessities to Economically Disadvantaged Populations, Including homeless shelters, crisis shelters, congregate care facilities, food banks, human services providers whose function includes the direct care of patients in state-licensed or funded voluntary programs; the care, protection, custody and oversight of individuals both in the community and in state-licensed residential facilities; and other critical human services agencies providing direct care or support;
  - (ix) Construction, Including skilled trades such as electricians, plumbers, other related construction firms and professionals for essential infrastructure or for emergency repair and safety purposes;
  - (x) Federal, State, or county agencies under direct control of any branch of the United States Federal Government, or of the State of South Dakota or of Hand County.
  - (xi) Essential Services Necessary to Maintain the Safety, Sanitation and Essential Operations of Residences or Other Essential Businesses, Including law enforcement, fire prevention and response, building code enforcement, security, emergency management and response, building cleaners or janitors, general maintenance whether employed by the entity directly or as a vendor, automotive repair, or disinfection;
  - (xii) An "Essential Business" shall also specifically include or exclude any business or organization type as clarified by resolution of the Hand County Board of Commissioners, even if the business or organization type is identified herein.
- (b) A resolution requiring that all non-essential businesses close in-office or on-site personnel functions and cease all in-person customer contact passed by the Hand County Board of Commissioners in accordance with this ordinance shall be deemed effective immediately upon its publication.
  - (c) The owner and supervising manager of any non-essential businesses that refuses to close in-office or on-site personnel functions or to cease all in-person customer contact in violation of the Hand County Board of Commissioners in accordance with this ordinance shall be deemed to be in violation of this ordinance.
- (6) Any violation of this ordinance is subject to the general penalty provision in SDCL 7-18A-2.
  - (7) This Ordinance shall apply to all locations within Hand County.

(8) Each day a violation of this ordinance is allowed to occur is considered a separate offense committed by the person(s) in charge of the facility in violation.

**BE IT FURTHER ORDAINED**, that, pursuant to SDCL 7-18A-8, this ordinance is necessary for the immediate preservation of the public peace, health, safety, and welfare of the County and shall become effective immediately upon passage.

Dated this \_\_\_\_ day of March, 2020.

**HAND COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
Jim Jones, Chairman

ATTEST:

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Doug DeBoer, Hand County Auditor

(SEAL)