

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

ORDINANCE NO. _____

AN ORDINANCE ADOPTING THE SIOUX FALLS BOARD OF HEALTH BUSINESS REGULATIONS PERTAINING TO THE NOVEL CORONAVIRUS (COVID-19).

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 recommended that K-12 schools should remain closed through the remainder of the 2019-2020 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, as of 12 noon on April 29, 2020, there have been 1,984 confirmed cases of COVID-19 within Minnehaha County, 758 of which are active (i.e., the individual is not yet considered to have recovered); and

WHEREAS, as of 12 noon on April 29, 2020, there have been 138 confirmed cases of COVID-19 within Lincoln County, 53 of which are active; and

WHEREAS, as of 12 noon on April 29, 2020, there have been 2,373 confirmed cases of COVID-19 within the state of South Dakota, 868 of which are active; and

WHEREAS, the Governor extended Executive Order 2020-13 in Executive Order 2020-18 until May 11, 2020, which requires “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 28, 2020, the Governor issued Executive Order 2020-20 implementing South Dakota’s “Back to Normal Plan” finding that current projections from the South Dakota Department of Health, major health systems within the state, and scientific data and expertise indicated that efforts throughout South Dakota had reduced the potential demand upon hospitals and that the curve had flattened indicating a slowing of the spread of COVID-19 within South Dakota; and

WHEREAS, the Centers for Disease Control and Prevention (“CDC”) continues to 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 May 1, 2020, at 1:00pm (CDT) and reviewed revised business regulations;

WHEREAS, on May 1, 2020, the Sioux Falls Board of Health recommends (6-0) approval of Business Regulations Relating to COVID-19;

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

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

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

I. Definitions:

1. "Premises" as used herein means the business building, structure or any portion thereof together with the parking lot, patio and other outdoor seating area for such business.
2. "Party" and "Parties" as used herein means groups of six or fewer adult patrons. Minors are allowed and not included in party limits.
3. "Patron" as used herein means a customer of any business defined in Section II or III herein and does not include the owners, employees or staff of any such business.
4. "Seating" as used herein means patron seating at tables, counters and bars.
5. "Social distancing" as used herein means separation of at least six (6) feet between party seating arrangements.

II. All licensed food service entities including but not limited to restaurants, food courts, coffee houses, bars, breweries, distilleries, wineries, clubs, cafes and other similar places of public accommodation offering food and beverages for on-site consumption, including any alcohol licensees with on-sale privileges, shall be permitted to allow patrons into their businesses so long as the maximum number of patrons allowed upon the business's premises at any given time shall not exceed the greater of the following:

1. Ten (10) patrons; or
2. The number of patrons for which the business can provide seating to all parties which is no less than six (6) feet apart from other parties.

Businesses included in this section may not serve any single group of patrons larger than a Party, as defined herein.

III. All recreational facilities, athletic facilities, health clubs, and entertainment venues shall be permitted to allow patrons into their businesses so long as the maximum number of patrons allowed upon the business's premises at any given time shall not exceed the greater of the following:

1. Ten (10) patrons; or
2. Fifty percent (50%) of the business's occupant load as determined by the City Fire Marshal or the City Planning and Development Office pursuant to the business's applicable Occupancy Classification.

IV. All businesses, including those not listed in Sections II or III above, are expected to maintain social distancing between parties and should implement or continue to

implement procedures to ensure compliance with federal and state health guidance in order to prevent the spread of COVID-19, including without limitation utilization of the City's "Supporting Operations and Resiliency" (SOAR) program for businesses.

- V. Any person or business 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. Each day a violation of this ordinance is allowed to occur is considered a separate offense.
- VI. Ordinance 42-20 is hereby repealed.
- VII. 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.
- VIII. This Ordinance is effective immediately upon publication on May 8, 2020, and shall remain in effect until specifically repealed.
- IX. 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