

CLAY COUNTY ORDINANCE NO. 2020-01

AN EMERGENCY ORDINANCE TO ADDRESS A PUBLIC HEALTH CRISIS BY IMPLEMENTING CERTAIN MEASURES WHICH HAVE BEEN DEEMED NECESSARY TO SLOW THE COMMUNITY SPREAD OF CORONAVIRUS (COVID-19).

WHEREAS, the Clay County Commission has the authority to pass ordinances for the purpose of promoting preservation of public peace, health, safety, and general welfare of the community as it pertains to the immediate preservation of health and the suppression of disease; and

WHEREAS, an outbreak of the disease COVID-19, which is caused by the novel coronavirus, has been confirmed in more than 100 countries, including the United States; and

WHEREAS, COVID-19 is a severe respiratory disease 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, COVID-19 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 COVID-19 as a public health emergency; and

WHEREAS, on March 13, 2020, the President of the United States Donald Trump declared a national emergency in response to the global pandemic of COVID-19; and

WHEREAS, on the same day, South Dakota 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 COVID-19; and

WHEREAS, cases of COVID-19 have been confirmed in South Dakota; and

WHEREAS, the CDC and health experts have recommended social distancing to slow the spread of COVID-19; 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 have been closed until at least May 1, 2020; and

WHEREAS, on March 16, 2020 the White House issued guidance recommending that social 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, Governor Kristi Noem on March 23, 2020 issued an Executive Order that noted that any South Dakota enclosed retail business that promotes public gatherings should suspend or modify business practices as recommended by the CDC, and continue or consider business models that do not involve public gatherings; 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 County's health care providers; and

WHEREAS, it is important that control measures be taken to reduce or slow down the spread of COVID-19 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 COVID-19.

WHEREAS, while this ordinance cannot become legally effective until after the second reading of an ordinance which must be at least five (5) days after the first reading of an ordinance due to the requirements of state law, the County strongly urges all businesses to start voluntarily complying with these regulations immediately.

NOW THEREFORE, BE IT ORDAINED, by the Clay County Commission that:

1. Effective at, 12:00 p.m. on April 1, 2020, all 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, are closed to on-site/on-sale patrons. These businesses may continue to operate in order to provide take-out, delivery, curbside service, 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 COVID-19.
2. Effective at 12:00 p.m. on April 1, 2020, all recreational facilities, public pools, health clubs, athletic facilities and theaters, including movie theaters and music or entertainment venues are directed to close and cease operations.

3. Effective at 12:00 p.m. on April 1, 2020, all hookah lounges, cigar bars, vaping lounges or other similar business which allow for on-site consumption are directed to cease allowing on-site consumption, but may continue to offer products for sale to consume off-site under the same conditions as bars and restaurants outlined in paragraph #1.
4. Effective at 12:00 p.m. on April 1, 2020, all arcades, bingo halls, bowling alleys, indoor climbing facilities, skating rinks, trampoline parks, and other similar recreational or entertainment facilities are directed to close and cease operations.
5. 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, markets, retail stores 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.
 - b. Room service in hotels.
 - c. Health care facilities, residential care facilities, congregate care facilities, and correctional facilities.
 - d. Crisis shelters, homeless shelters, soup kitchens, or other similar institutions.
 - e. Airport concessionaires.
 - f. Any emergency facilities necessary for the response to the current public health emergency or any other community emergency or disaster.
6. This ordinance shall remain in effect for a period of sixty (60) days, at which time it shall be automatically repealed unless specifically readopted for an additional period of time by the Clay County Commission. At each regular County Commission meeting during the sixty (60) day period or at a special meeting called for consideration of this ordinance, the County Commission will have as an agenda item consideration of a resolution to automatically end the closures prior to the end of the sixty (60) day period. The end of any closure named in this ordinance may be adjusted at any time by a resolution of the County Commission.
7. Any violation of this ordinance is subject to the general penalty provision in SDCL 7-18A-32. Each day a violation of this ordinance is allowed to occur is considered a separate offense.

BE IT FURTHER ORDAINED, that this ordinance is necessary for the immediate preservation of the public peace, health, safety, and welfare of Clay County and shall become effective immediately upon passage.

Dated this ____ day of April, 2020.

CLAY COUNTY BOARD OF COUNTY
COMMISSIONERS

BY: _____
Travis Mockler, Chairman

ATTEST:

Carri Crum, Auditor

(SEAL)

First Reading: March 27, 2020
Second Reading: April 1, 2020
Effective Date: April 1, 2020

DRAFT