

**ORDINANCE 1033**

**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**, the City of Yankton has the authority pursuant to SDCL 9-29-1 and 9-32-1 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 the 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**, on March 16, 2020, the City of Yankton passed resolution 20-21, which declared a state of emergency to exist in the City of Yankton in response to the spread of the virus causing the COVID-19 disease; 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, 2020, the 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 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**, 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 City'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 City's residents, especially for seniors and those with underlying health conditions that make them particularly vulnerable to the COVID-19 disease.

**WHEREAS**, the Yankton City Board of Health, exercising its authority within Ordinance Sec. 11-32 of the Yankton Code of Municipal Ordinances, has found that the rules and regulations contained within this ordinance are necessary for the prevention and spread of the contagious virus causing the deadly COVID-19 disease within the city and recommended the passage thereof by the Yankton Board of City Commissioners.

**NOW THEREFORE, BE IT ORDAINED**, by the Yankton Board of City Commissioners that:

(1) Effective at 12:00 a.m. on Thursday, March 26, 2020, all restaurants, coffee houses, bars, breweries, dance clubs, gentlemen's 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, 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 provision may be increased by recommendation of the City Board of Health and passage of a resolution of the Yankton Board of City Commissioners. This closure will remain in effect through Friday, May 1, 2020.

(2) Effective at 12:00 a.m. on Thursday, March 26, 2020, all recreational facilities, pools, health and fitness facilities and clubs, social clubs, fraternal organizations, athletic and weight training facilities, barber shops, hair salons, nail salons, tanning salons, spas and massage parlors, estheticians, tattoo parlors, dog grooming salons, movie and live production theaters, event centers, meeting halls, and music and entertainment venues are directed to close and cease operations. The list of the businesses types closed by this provision may be increased or decreased by recommendation of the City Board of Health and passage of a resolution of the Yankton Board of City Commissioners. This closure will remain in effect through Friday, May 1, 2020.

(3) Effective at 12:00 a.m. on Thursday, March 26, 2020, all tobacco shops and lounges, vaping shops and lounges, hookah lounges, and other similar business which allow for on-site consumption of any product by smoking or inhaled vapor 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. The list of the businesses types closed by this provision may be increased by recommendation of the City Board of Health and passage of a resolution of the Yankton Board of City Commissioners. This closure will remain in effect through Friday, May 1, 2020.

(4) Effective at 12:00 a.m. on Thursday, March 26, 2020, all pool halls, video game arcades, video lottery casino operations, bowling alleys, indoor ice skating rinks, and other similar recreational or entertainment facilities are directed to close and cease operations. The list of the businesses types closed by this provision may be increased by recommendation of the City Board of Health and passage of a resolution of the Yankton Board of City Commissioners. This closure will remain in effect through Friday, May 1, 2020.

(5) The closures in this order do not apply to the following:

- (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, churches, soup kitchens, or other similar institutions.
- (e) Any emergency facility necessary for the response to the current public health emergency or any other community emergency or disaster.
- (f) Any outdoor recreational facility where safe distances between patrons may be maintained (i.e. the outdoor portions of any golf course or archery range).
- (g) Daycare providers.
- (h) Any other business type or service established by recommendation of the City Board of Health and passage of a resolution of the Yankton Board of City Commissioners.

(6) Beginning at 12:00 a.m. on Thursday, March 26, 2020, it shall be unlawful In the City of Yankton for any person to participate in a "communal gathering" as defined herein effective through Friday, May 1, or until such extended time as may be recommended by the Board of Health and approved by resolution of the Yankton Board of City Commissioners not to exceed the time frame in which 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 more than ten (10) 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 six feet (6') of one another for extended periods:
  - (i) public parks, sidewalks, streets, and any outdoor recreational facility where safe distances between patrons may be maintained (i.e. the outdoor portions of any golf course or archery range);

- (ii) parking lots and common areas of any hotel, office building or residential apartment buildings;
  - (iii) grocery stores, shopping malls, manufacturing facilities, daycare providers, or other retail or business establishments where larger numbers of people may be present, but where it is unusual for people to be within six feet (6') of one another for extended periods;
  - (iv) hospitals, mental health or substance abuse treatment facilities, and medical clinics and facilities, long term care and assisted living facilities; and
  - (v) Any other location established by recommendation of the City Health Board and approved by resolution of the Yankton Board of City Commissioners.
- (c) Each person participating in any communal gathering that violates a size restriction established by resolution of the Yankton Board of City Commissioners in accordance with this ordinance shall be deemed to be in violation of this ordinance.

(7) This ordinance shall remain in effect until Tuesday, June 8, 2020, at which time it shall be automatically repealed without further action of the Yankton Board of City Commissioners unless specifically readopted for an additional period of time by the Yankton Board of City Commissioners. Any dates identified in the ordinance for closures to automatically end may be extended or reduced within the period covered by this ordinance by a resolution of the Yankton Board of City Commissioners.

(8) Each person in violation of this ordinance shall be guilty of a Class 2 misdemeanor, and shall be subject to the penalties established under Ordinance Sec. 1-8 of the Yankton Code of Municipal Ordinances. Each day a violation of this ordinance occurs is considered a separate offense.

**BE IT FURTHER ORDAINED**, that, pursuant to SDCL 9-19-13, this ordinance is necessary for the immediate preservation of the public peace, health, safety, and welfare of the City and shall become effective immediately upon passage.

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

**CITY OF YANKTON**

\_\_\_\_\_  
Nathan V Johnson, Mayor

ATTEST:

\_\_\_\_\_  
Al Viereck, Finance Officer

(SEAL)

Adopted: March 30, 2020  
1st Reading: March 24, 2020  
2nd Reading: March 30, 2020  
Publication Date: March 31, 2020  
Effective Date: March 31, 2020 (Emergency Clause)