

**DAY COUNTY COMMISSION**  
**WEBSTER, SOUTH DAKOTA**  
**March 25, 2020**  
**(unapproved)**

The Day County Board of Commissioners met Wednesday, March 25, 2020 at 3:00 PM in the Commissioners Chambers in the Day County Courthouse. Meeting called to order by Chairman Tompkins. Members present: Commissioners James, Tobin and Sinner. Absent: Walters. Others present: Auditor Fosheim, States Attorney Smeins, Sheriff Rucktaeschel and Amanda Fanger-R&F. Linda Walters called in at 2:55 PM.

**PLEDGE:** Chairman Tompkins led the members in reciting the Pledge of Allegiance.

**CORONA VIRUS ISSUES:** Moved by James, seconded by Tobin to adopt the following Resolution #2020-05. Motion carried.

**RESOLUTION OF DAY COUNTY #2020-05**

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;

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;

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;

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

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 COVID-19 pandemic;

WHEREAS, on March 23, 2020, Governor Kristi Noem issued Executive Order 2020-08 which is hereby incorporated by reference;

WHEREAS, the CDC and health experts have recommended social distancing to slow the spread of COVID-19;

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;

WHEREAS, in response to the need to implement social distancing all schools in the state have been closed for at least two weeks;

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;

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;

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;

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.

NOW, THEREFORE, be it resolved by Day County Commissioners on March 25, 2020, hereby recognize the attached Ordinance as vital to the health and safety of the community and encourages its citizens to conduct themselves accordingly in the best interests of our community and the public.

Dated this 25<sup>th</sup> day of March, 2020.

James Tompkins, Chairman Board of County Commissioners

ATTEST: Bonnie Fosheim, Auditor

Moved by Walters, seconded by James to approve the first reading of the following Ordinance:

**DAY 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, Day County has the authority pursuant to SDCL 7-8-20(8)(16), 7-8-33, 9-29-16 and 21-10-6 to pass ordinances for the purpose of promoting the health, safety, morals and general welfare, of the community and the promotion 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;

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 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 COVID-19 pandemic; and

WHEREAS, on March 23, 2020, Governor Kristi Noem issued Executive Order 2020-08 which is hereby incorporated by reference; and

WHEREAS, cases of COVID-19 have not been confirmed in Day County, 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 for at least two weeks; 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, 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; and

WHEREAS, the City of Webster and the City of Waubay are also contemplating ordinances to address these issues.

NOW, THEREFORE, BE IT ORDAINED by Day County that:

- 1 . That effective at 12:00 a.m. on March 31 , 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 onsite 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 if properly licensed for such services. 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 guidance in order to prevent the spread of COVID-19.
2. Effective at 12:00 a.m. on March 31, 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 a.m. on March 31 , 2020, all arcades, bingo halls, bowling alleys, skating rinks, trampoline parks, and other similar recreational or entertainment facilities are directed to close and cease operations.
4. Effective at 12:00 a.m. on March 31, 2020, all other businesses within Day County shall 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.
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 offsite 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) 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 until such time as it is amended or repealed.
7. Any violation of this ordinance is subject to the general penalty provisions of Day County ordinances. This is not, however, the exclusive remedy to enforce this ordinance. Each day a violation of this ordinance is allowed to occur is considered a separate offense;

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

James Tompkins, Chairman Board of County Commissioners

ATTEST: Bonnie Fosheim, Auditor

First reading, the 25<sup>th</sup> day of March, 2020

Second reading, the 30<sup>th</sup> day of March, 2020

Moved by Walters, seconded by Tobin to have the 2<sup>nd</sup> Reading of Ordinance #2020-01 on March 30, 2020 at 3 PM. Motion carried.

**EXECUTIVE SESSION:** Moved by Sinner, seconded by James to enter Executive Session at 4:00 PM for personnel matters as per SDCL 1-25-2. Motion carried. Chairman Tompkins reconvened the regular session at 5:30 PM.

**ADJOURNMENT:** Moved by James, seconded by Sinner to adjourn until 3:00 PM, Monday March 30, 2020 to convene in the Commissioners Chambers in the Day County Courthouse. Motion carried.

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James Tompkins  
Chairman

ATTEST:

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Bonnie Fosheim  
Day County Auditor

Day County does not discriminate on the basis of color, national origin, sex, religion, age, or disability in employment or the provision of service.

Published once at the total approximate cost of \$ \_\_\_\_\_