

ORDINANCE NO. 2020-3-25

AN ORDINANCE OF THE CITY OF BURKE, SOUTH DAKOTA DECLARING A HEALTH EMERGENCY AND LIMITING PUBLIC GATHERINGS WITHIN THE CITY AND WITHIN ONE MILE OF THE CITY LIMITS

WHEREAS, the City of Burke 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, 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, the Gregory County Board of County Commissioners issued a Resolution on March 24, 2020, detailing similar responses and requirements regarding COVID-19 and businesses located within Gregory County and the City; 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.

NOW THEREFORE, BE IT ORDAINED, by the City of Burke, South Dakota:

1. Effective at 12:00 a.m. on April 2, 2020, all restaurants, food courts, food service locations, 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 a.m. on April 2, 2020, all churches, 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 April 2, 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 a.m. on April 2, 2020, all pool halls, video game arcades, video lottery casino operations, indoor recreational or entertainment are directed to close and cease operations.

5. Effective at 12:00 a.m. on April 2, 2020, all other retail and service businesses in which more than ten (10) people are gathered or permitted to gather in the facility are directed to close and cease operations.

6. 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. 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. Municipal Airport

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

7. This ordinance shall remain in effect until such time as it is amended, suspended, reinstated or repealed by Resolution of the Burke City Council.

8. Any violation of this ordinance is subject to the general penalty provisions applicable to all other violations of the Burke City Ordinances.

9. This Ordinance shall apply to all persons, facilities and locations within the City of Burke and within 1 mile of the corporate limits of the City of Burke.

10. 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 9-19-13, this ordinance is necessary due to a health emergency, the immediate preservation of the public peace, health, safety, and welfare of the City and shall become effective immediately upon passage and publication.

APPROVED: _____
Thomas J. Glover, Mayor

Passed First Reading: 3/25/2020
Passed Second Reading: 3/31/2020
Adopted: 3/31/2020
Published: 4/1/2020
Effective: 4/2/2020

ATTEST: _____
Mike Glover, Finance Officer

(SEAL)