

ORDINANCE 1312

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

WHEREAS, the City of Deadwood has the authority pursuant to SDCL 9-29-1 and 9-32-1 to pass resolutions 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, 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 March 13, 2020, Executive Order 2020-04 declared a state of emergency to exist in the State of South Dakota in response to the spread of COVID-19, which was extended through May 31, 2020 by Executive Order 2020-15; and

WHEREAS, On March 23, 2020, Executive Order 2020-08, provided guidance and strategies to South Dakota citizens and businesses to reduce the likelihood of spreading COVID-19; and

WHEREAS, on March 25, 2020, the City of Deadwood passed Resolution #10 restricting certain activity in order to lessen the community spread of COVID-19; and

WHEREAS, Resolution #10 stated it was to remain in effect until such time as it is amended and will be reviewed at each City Commission meeting to follow; and

WHEREAS, following second reading on March 29, 2020, the City of Deadwood enacted Ordinance #1310 in order to lessen the community spread of COVID-19; and

WHEREAS, The CDC & SD Department of Health (SD DOH) have issued guidance to state and local governments and all citizens recommending steps to prevent community spread and guard against the COVID-19 outbreak; and,

WHEREAS, On April 6, 2020, Executive Order 2020-12, rescinded Executive Order 2020-08, and put in place mandatory guidelines for South Dakota citizens, employers, retail businesses, health care organizations, and local and municipal governments; and,

WHEREAS, pursuant to Executive Order 2020-12, the City of Deadwood (hereinafter the "City") shall follow the recommendations of Executive Order 2020-12 and shall:

1. Implement the recommended CDC hygiene practices and public employee arrangements designed to reduce the likelihood of spreading the disease, and take action based on facts, data, and science.

2. Restrict public gatherings of ten or more people, unless it is necessary.
3. Review the business practices of each “enclosed retail business that promotes public gatherings” in their community for compliance with [Executive Order 2020-12] and protect the ability of those businesses to innovate.
4. Encourage entrepreneurial innovation in the private sector to provide employment opportunities to protect the continued operation of the free market consistent with the recommendations of the CDC hygiene practices and understand that COVID-19 will impact their communities for potentially the next four months or more.
5. Protect critical infrastructure sectors, as defined by the Department of Homeland Security, such as healthcare services, pharmaceutical industry, and food supply entities, as these sectors have a special responsibility to maintain their normal work schedule.

WHEREAS, following the social distancing requirements set forth in Resolution #10 and Ordinance #1310, and a review by the City of Deadwood, the City of Deadwood desires to relax certain requirements set forth in Resolution #10 and Ordinance #1310 and implement the guidelines of Executive Order 2020-12 in order to allow businesses in Deadwood to re-open.

NOW, THEREFORE, BE IT ORDAINED, by the City of Deadwood there is hereby adopted the following ordinance that implements various measures to address the state of emergency caused by COVID-19:

Section 1: RESTRICTIONS

The City has general police powers pursuant to SDCL Ch. 9-32 and SDCL Ch. 9-29 to carry into effect this Ordinance and resolutions relating thereto and to promote the general welfare and health of the community. Under SDCL § 9-32-1, the City has the power to “do what may be necessary for the promotion of health or the suppression of disease.” Furthermore, under SDCL § 9-29-1, the City has the power to promote “the health, safety, morals, and general welfare of the community.” Therefore, pursuant to these enumerated powers, State Law, and Executive Order 2020-12, as incorporated into this Ordinance by this reference, the City of Deadwood hereby implements the following restrictions:

A. General Restrictions

1. The recommended CDC hygiene practices and public employee arrangements designed to reduce the likelihood of spreading the disease are hereby implemented, and action is taken based on facts, data, and science.
2. Public gatherings of ten or more people, if unnecessary, are hereby restricted as set forth in CDC & SD DOH guidance and as otherwise provided by this Ordinance.

3. Entrepreneurial innovation in the private sector is hereby encouraged in order to provide employment opportunities to protect the continued operation of the free market consistent with the recommendations of the CDC hygiene practices and to understand that COVID-19 will impact their communities for potentially the next four months or more.
4. Critical infrastructure sectors, as defined by the Department of Homeland Security, such as healthcare services, pharmaceutical industry, and food supply entities, are hereby protected as these sectors have a special responsibility to maintain their normal work schedule.

B. Every Citizen within the City Shall:

1. Review and practice the recommended CDC & SD DOH hygiene practices designed to stop the spread of the disease COVID-19 and encourage others to do so as well.
2. Know the signs and symptoms of COVID-19, call a health care provider if suffering symptoms in advance of a visit to a provider, and stay at home if sick.
3. Understand that those who are particularly vulnerable to COVID-19, including those over age 65 and those with a serious underlying medical condition (including chronic lung disease, severe respiratory disorder, moderate to severe asthma, serious heart or cardiac condition, immunosuppression, diabetes, liver disease, chronic kidney disease or someone undergoing dialysis, or other condition identified by one's medical provider) should take extra precautions and remain home if possible.
4. Implement social distancing measures and support businesses who are adjusting their business model to reduce the spread of COVID-19.
5. Assist, if possible, those who work in essential jobs such as emergency personnel, medical professionals, and law enforcement.

C. All employers, both for profit and not-for-profit, within the City of shall:

1. Implement the recommended CDC & SD DOH hygiene practices and other business strategies designed to reduce the likelihood of spreading the disease (staggering shifts, flexible schedules, employee screenings, and similar measures to avoid group contact).

2. Understand that the COVID-19 is not a short-term challenge, and operations will need to endure a difficult and limited social environment for potentially the next several months.
3. Innovate and continue to demonstrate entrepreneurial excellence in their operations during this difficult and uncertain environment.
4. Encourage staff to telework if possible, implement social distancing measures, limit unnecessary work gatherings, limit non-essential travel, and consider regular health checks including CDC & SD DOH guidance for COVID-19 screening if possible.
5. Offer, to the extent possible, special shopping times or access periods for populations particularly vulnerable to COVID-19.

D. Any “enclosed retail business that promotes public gatherings” within the State of South Dakota shall:

1. Suspend or modify business practices as recommended by CDC & SD DOH guidance that involve ten or more people to be in an enclosed space where physical separation of at least six feet is not possible.
2. Continue offering or consider offering business models that do not involve public gatherings, including takeout, delivery, drive-through, curbside service, off-site services, social distancing models, or other innovative business practices that do not involve public gatherings in an enclosed space.
3. Consider business arrangements and innovative ideas intended to support the critical infrastructure sectors, as defined by the Department of Homeland Security.
4. For the purposes of this Section D, an “enclosed retail business that promotes public gatherings” means any enclosed facility operating as a bar, restaurant, brewery, café, coffee shop, recreational or athletic facility, health club, or entertainment venue.

E. Casinos shall:

1. Casinos must follow the CDC & SD DOH guidelines as well as any guidelines and regulations set forth by the American Gaming Association and South Dakota Gaming Association. Where spacing of six feet is possible casinos may open but patrons must be limited so that the spacing requirements set forth by the CDC & SD DOH are met.
2. Casinos must limit operations to slot machines and not table games shall be permitted.

3. Notwithstanding Section 1(E)(2) above, the Deadwood Gaming Association (“DGA”) may submit a plan of compliance to the Deadwood City Commission to operate table games in conformance with Executive Order 2020-12 and the CDC’s COVID-19 guidelines. After receipt of the plan of compliance, the Deadwood City Commission will determine whether the plan of compliance meets the requirements of Executive Order 2020-12 and the CDC’s COVID-19 guidelines. Approval of the plan of compliance is in the sole discretion of the Deadwood City Commission.
4. Any exemption granted pursuant to this provision is a revocable privilege, and no holder acquires any vested interest or property right therein or thereunder.

Section 3: PROCEDURE

This Ordinance is self-executing and shall be effective immediately upon passage, however, in order to provide the City with the ability to carry out the purpose of this Ordinance, including Executive Order 2020-12, in a manner to protect the comfort, repose, health, or safety of others, as outlined by State and federal authorities, this Ordinance, or any portion thereof, may be further defined, administered, and executed through the passage of a properly enacted resolution or resolutions as deemed necessary.

Section 4: ENFORCEMENT AND PENALTY

1. Notwithstanding any ordinance or requirement to the contrary, pursuant to SDCL §§ 9-29-13, 21-10-1, and City Ordinance, 1312 should any individual or entity violate the requirements set forth in this Ordinance, the City may declare that individual or entity to be a public nuisance and may immediately abate the same.
2. Any violation of this Ordinance may be punished by a fine not to exceed \$500 or by imprisonment not exceeding 30 days, or by both such fine and imprisonment.

Section 5: GENERAL PROVISIONS

1. Any resolution passed hereunder shall be reconsidered by the Deadwood City Commission every seven days to ensure that it continues to meet the purposes of this Ordinance.
2. This Ordinance shall remain in effect as long as Executive Order 2020-12 and any subsequent orders from the Governor of the State of South Dakota addressing business requirements during the COVID-19 pandemic remain in effect, at which time it shall be automatically repealed unless specifically readopted for an additional period of time by the Deadwood City Commission

3. 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 and publication.

Dated this 27th day April, 2020.

David Ruth Jr, Mayor

Jessicca McKeown, Finance Officer

(SEAL)

First Reading: April 27, 2020

Second Reading: _____

Final Adoption: _____

Published: _____

Effective Date: _____