



## Mission Statement

To provide exemplary experiences, services & spaces that create opportunities for everyone to learn, engage and thrive.

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## YANKTON BOARD OF CITY COMMISSIONERS

Work Session Meeting beginning at 6:00 P.M.

**Monday, November 23, 2020**

**City of Yankton Community Meeting Room**

Located at the Career Manufacturing Technical Education Academy formerly known as Technical Education Center • **1200 W. 21<sup>st</sup> Street • Room 114**

**Due to the COVID-19 virus, this meeting will be conducted electronically in compliance with SDCL. If you would like to watch the City Commission meeting you can do so by accessing the City of Yankton's YouTube Live Channel.**

<https://www.youtube.com/channel/UCD1a1hf1dIkiLVSXnmdRQg/live>

If you would like to participate in the City Commission meeting, limited access will be provided through the west door of the CMTEA building. You will be asked to state what item you would like to participate in and allowed access one person at a time into the meeting room. You will be asked to introduce yourself and make your comments. Alternatively, you can comment or ask questions utilizing the chat function on the YouTube Livestream or email [commission@cityofyankton.org](mailto:commission@cityofyankton.org).

Rebroadcast Schedule: Tuesday @ 7:30pm, on channels 3 & 45

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1. Roll Call
2. Public Appearances
3. Mask Discussion
4. Other Business

*Other business is a time for City Commissioners to address the commission regarding matters not on the agenda. These items will be deliberated by the governing body and will not be acted upon at this time. Items mentioned may be added to a future City Commission meeting or work session for deliberation or action.*

5. Adjourn the Work Session of November 23, 2020

## Memorandum #20-229

To: Yankton City Commission

From: City Attorney Ross Den Herder

Date: November 18, 2020

Re: COVID-19 Work Session – November 23, 2020.

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Presently, the City of Yankton is experiencing its largest spike in active COVID-19 positive cases since the start of the pandemic earlier this year. Yankton citizens and representatives of the City's healthcare system are asking the City Commission to take some action regarding the wearing of masks/face coverings or other action to slow the spread of the virus causing COVID-19 disease within the City. This work session has been called in order that the City Commission may discuss and provide clear direction regarding the manner in which the City Commission wants to proceed regarding masking (resolution, ordinance, public education, etc.).

**Background Regarding Resolution 20-26:**

In mid-April, while many of the City's businesses were temporarily closed under temporary Ordinance #1033, the City Commission passed Resolution 20-26. The Resolution was pitched as a "stay at home" or "shelter in place" order to the community. It covers a broad swath of "personal responsibility" measures, including the wearing of face coverings and social distancing. Resolution 20-26 does not and has never had the force/effect of law. There is no punishment for violations of its terms. It also has no time limitations regarding its effectiveness, and as such, the Resolution remains active guidance to the residents and business patrons of the City.

In addition to this memo, I recommend that each of you review Resolution 20-26 and its cover memo.

**Background Regarding Ordinance #1034:**

The City Commission took action to end the lock-down restrictions imposed by temporary Ordinance #1033 on May 1, 2020. Ordinance #1033 expired by its own terms on June 8, 2020. There is currently no Ordinance or other law in place that gives the City Commission and City staff any power to impose restrictions upon the public designed to limit the spread of COVID-19 in Yankton.

Shortly before Ordinance #1033 expired in late May, 2020, some City Commissioners and the voting and *ex officio* members of the City's Health Board were concerned about the need to quickly impose new restrictions upon the City if COVID-19 numbers would spike in a manner that would threaten to overwhelm the local healthcare system. To address that concern, Ordinance #1034 was presented to the City Commission for a 1<sup>st</sup> reading (it was "introduced") at the May 26 regular meeting. If left unchanged, the Ordinance may be passed in a single additional meeting if placed on a published meeting agenda for a second reading.

The Ordinance was strategically drafted to give the City Commission a large number of powers, which the City Commission might exercise by subsequent agenda action item. After passage of the ordinance, the City Commission would need to consider and pass a new resolution (following a recommendation from the City's Health Board) to exercise some or all of the powers contained within the ordinance. Any powers/restrictions exercised by the City Commission could be limited in duration, but in no event could the restrictions last beyond 180 days following passage of the Ordinance.

I also recommend the City Commission review the text of Ordinance #1034, along with the cover memo prepared for the May 26 meeting.

### **Options available to the City Commission:**

At this work session, the City Commission's goal is to find a path forward that a majority of the City Commission wishes to pursue on this issue and direct staff accordingly. To guide that discussion, your collective options distill down to the following from least restrictive to most-restrictive:

- (1) Do nothing and don't get involved with any further regulation of the public to slow the spread of the virus causing COVID-19 disease; or
- (2) Take no action on any new or revised resolution, but direct staff to remind and broadly educate the public and promote the terms of Resolution 20-26 to slow the spread of COVID-19; or
- (3) Modify or pass a new resolution to supplement or replace Resolution 20-26 to admonish/direct the public to take (or not take) certain actions to slow the spread of COVID-19. This action may be taken in Monday's regular session as scheduled on the regular meeting agenda; or

- (4) Pursue passage of Ordinance #1034 as written. This requires one subsequent regular or special meeting to pass the ordinance and publication. Then, in order to exercise the powers contained in the Ordinance, the Health Board will need to give a recommendation, and at a subsequent meeting, the City Commission will need to take action on a resolution specifying to what extent they wish to regulate using the powers contained in the ordinance; or
- (5) Pursue passage of Ordinance #1034 with modification, or passage of another ordinance entirely. Once drafted, this option requires two additional regular or special meetings to complete a new first reading (an “introduction”) and a second reading (which meetings must be separated by 5 business days) to pass the ordinance. Depending on how the Ordinance is drafted, I would also anticipate that in order to exercise the powers contained in the Ordinance, the Health Board will need to give a recommendation and the City Commission will need to take action on a resolution specifying to what extent they wish to regulate using the powers contained in the ordinance.

Options (1), (2), and (3) do not have the force and effect of law because no penalty may be imposed for violation of a resolution. On the other hand, an ordinance does have the effect of law and a penalty can be imposed for its violation. Option (4) (passage of Ordinance #1034 as written) will impose a fine for a violation. Under Option (5), an ordinance could be drafted in a manner that does not impose legal penalties for its violations. However, there is an argument to be made that there is no point to drafting an ordinance that becomes “law” with no penalty or enforcement mechanism for violations, and in such an instance, the City Commission is probably better served sticking with a resolution.

- Ross K. Den Herder, City Attorney

**Memorandum No. 20-83**

**TO: Mayor and City Commissioners**  
**FROM: Amy Leon, City Manager**  
**RE: Memorandum in Support of Resolution & Advisory #20-83 for COVID-19**  
**DATE: April 9, 2020**

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The Health Board met on Monday April 6, 2020 and Thursday April 9, 2020 and determined that they would like to pursue the following two strategies to further our local response to slow the spread of the coronavirus.

First, is pushing our public education efforts. In this regard, we are working on a number of public service announcements and informational pieces for our media and social media outlets focused around the topics of social distancing, hygiene, and best practices when it comes to being out in public (limiting trips, use of face coverings, etc.) In addition, I have contacted Dr. Kindle of the Yankton School District who has agreed to reach out to teachers to include best practices in the online curriculum for Yankton School District students. Dr. Milroy also volunteered to work with the Press and Dakotan to run an editorial reminding our community how important and serious we must take this effort.

Secondly, the Health Board is recommending that the City Commission issue the attached Resolution and Advisory to citizens at our next City Commission meeting. The Health Board believes that further action is necessary by our citizens and business owners to engage in social distancing, good hygiene, and limiting interactions with people whenever possible.

At this time, the Health Board recommends this should be a request and call to action rather than a change to our existing ordinance.

**It is recommended that the City Commission approves the Resolution and Advisory which calls upon every citizen to increase their awareness and take additional efforts and precautions to aid in slowing the spread of the coronavirus.**

Resolution No. 20-26

**Resolution and Advisory of the Yankton Board of City Commissioners**

**WHEREAS**, on March 11, 2020, the World Health Organization declared COVID-19 a pandemic; and

**WHEREAS**, on March 13, 2020, the President of the United States and the Governor of South Dakota both declared a state of emergency in response to the COVID-19 pandemic; and

**WHEREAS**, on March 16, 2020, the City Commission issued Resolution #20-21 declaring a state of emergency in the City of Yankton to address the novel coronavirus causing COVID-19 disease; and

**WHEREAS**, on March 23, 2020, the Governor issued Executive Order 2020-08, setting forth guidelines and recommendations regarding personal, business, and healthcare precautions to be taken in response to the COVID-19 pandemic; and on April 6, 2020, the Governor superseded her Executive Order 2020-08 with Executive Order 2020-12, which changed such guidelines and recommendations into overt directives; and

**WHEREAS**, on March 24, 2020, the Governor announced that she is recommending that all K-12 schools in South Dakota remain closed until May 1, 2020, which has been extended through the end of the 2019-2020 school year; and

**WHEREAS**, on March 24, 2020, the Yankton School District closed all K-12 schools, which will remain closed through the end of the 2019-2020 school year; and

**WHEREAS**, on Tuesday, March 31, 2020, Yankton City Ordinance 1033 – COVID-19 Temporary Emergency Ordinance No. 1 went into legal effect closing certain business establishments and restricting the size of gatherings within the City of Yankton to slow the spread of the novel coronavirus causing COVID-19 disease.

**WHEREAS**, as of 12 noon on April 13, 2020, there have been 868 confirmed cases of COVID-19 within the State of South Dakota, of which 661 cases remain “active”; and

**WHEREAS**, as of 12 noon on April 13, 2020, there are 22 confirmed cases of COVID-19 within Yankton County, of which 9 cases remain “active”; and

**WHEREAS**, the South Dakota Department of Health reports that there is currently substantial community spread of the coronavirus causing the COVID-19 disease in Yankton County; and

**WHEREAS**, as of noon on April 13, 2020, the South Dakota Department of Health reports reflect that Yankton County has the 3rd highest reported numbers of “active” COVID-19 cases amongst all counties in the State of South Dakota; and

**WHEREAS**, the Centers for Disease Control and Prevention ("CDC") recommend certain actions for the preparation and mitigation of community transmission of the coronavirus causing

COVID-19 disease, including, but not limited to, social distancing measures and restricting the size of gatherings; and

**WHEREAS**, the CDC has recently updated its guidance recommending the use of face covering over the mouth and nose as a way to prevent the spread of disease from asymptomatic infected persons; and

**WHEREAS**, there is clear evidence that some individuals who contract the coronavirus causing COVID-19 disease have no symptoms or only mild symptoms, which means they are likely unaware they carry the virus. Because such individuals can still transmit the virus, and because evidence shows that the disease is easily spread, gatherings promote transmission of the coronavirus causing COVID-19 disease. Evidence further demonstrates that the coronavirus causing COVID-19 disease has a propensity to remain in the air or to attach to and remain on surfaces for prolonged periods of time, and it can thus be spread by breathing aerosolized particles containing the virus or through contact with contaminated surfaces; and

**WHEREAS**, the scientific evidence also shows that at this stage of the emergency, it is critical to slow transmission of the coronavirus causing COVID-19 disease to protect the most vulnerable and to prevent the City's health care system from being overwhelmed. One proven way to slow the transmission is to limit interactions among people to the greatest extent practicable; and

**WHEREAS**, SDCL 9-32-1 confers upon municipalities the power to do what may be necessary or expedient for the promotion of health or the suppression of disease.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF YANKTON:**

**Section 1: Stay at Home.** All residents of the City of Yankton are directed to remain in their homes except for solitary and/or household outdoor activities for the promotion of physical and emotional well-being, and activities related to the provision of only essential commodities and services.

- a) Residents shall limit visits to grocery and retail stores to once per week or use delivery or pick-up services.
- b) When it is necessary for residents to visit grocery and/or retail stores, households shall choose a designated shopper to do the shopping for the entire household in order to reduce the number of people in the store(s). Shoppers shall remember to remain at least six feet away from others in the store.
- c) Whenever possible, residents shall avoid taking any children still living at home with them on any essential shopping trips.
- d) Residents returning from extended trips or spending the winter in warmer climates shall self-quarantine for 14 days upon their return.
- e) Residents should support local businesses that promote social distancing and demonstrate compliance with CDC guidelines.
- f) Residents are encouraged to participate in organized religious activities only via remote or drive-in options as available.
- g) Even while adhering to the 10-person gathering limitation imposed by Ordinance 1033, residents are directed not to participate in voluntary in-person gatherings of any size outside of their immediate household.

**Section 2: Healthcare.** Residents of the City of Yankton shall call ahead to healthcare providers if feeling sick.

- a) Residents may still attend routine medical appointments but shall follow the guidance of their medical providers and always call ahead if feeling sick.
- b) Residents may continue to go to the pharmacy to pick up medications but shall use drive through or delivery services whenever possible.

**Section 3: Safe Practices.** Residents of the City of Yankton shall continue to practice good respiratory hygiene, cover coughs and sneezes with a tissue or use the inside of their elbow, wash hands often, disinfect surfaces frequently, avoid touching their face, and strictly adhere to social distancing guidelines. Additionally, consistent with current CDC guidance, residents over the age of two who do not have trouble breathing should wear face coverings (i.e. a face mask entirely covering the mouth and nose) when interacting with others not within their household according to CDC recommendations. Such coverings shall not be used as a substitute for social distancing, which is vital for slowing down the spread of COVID-19.

**Section 4: Mental and Emotional Health.** Residents of the City of Yankton should be mindful of their mental health.

- a) Residents may continue to engage in outdoor activity such as, by way of example and not limitation, walking, hiking, running, or biking, provided that individuals strictly comply with social distancing and all other measures as advised by the CDC.
- b) Residents should be good neighbors to those around them and help others if able, keeping in mind that it remains critical to use safe practices as recommended by the CDC.
- c) Residents should support local businesses to the greatest extent possible while strictly abiding by CDC guidelines and this Resolution and Proclamation.

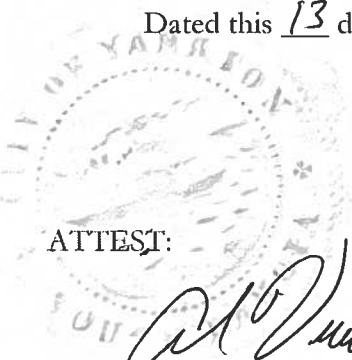
**Section 5: Businesses.** Businesses not required to close or otherwise bound by the 10-person gathering limitations set forth in Ordinance No. 1033 shall, whenever possible, limit their patron and employee occupancy to no more than 20% of their posted occupancy and shall institute and enforce a safe social distancing strategy for patrons and employees inside the place of business and for patrons and employees waiting to enter outside the place of business.

Dated this 13 day of April, 2020.

**CITY OF YANKTON**

*NATHAN V. JOHNSON*  
By: Nathan V Johnson, Mayor

ATTEST:



*Al Viereck*  
\_\_\_\_\_  
Al Viereck, Finance Officer  
(SEAL)



**MEMORANDUM #20-104**

**To:** Yankton Board of City Commissioners  
**From:** Ross K. Den Herder, Yankton City Attorney  
**Subject:** COVID-19 Temporary Emergency Ordinance No. #2  
**Date:** May 19, 2020

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In light of the current COVID-19 pandemic, this Commission passed Ordinance #1033 (COVID-19 Temporary Emergency Ordinance No. #1), which granted the City Commission the power to close certain businesses and limit the size of communal gatherings within City limits. Although those powers are not currently being exercised, the Commission retains and may exercise those powers by passage of a resolution until the Ordinance “sunset” (expires) on June 8, 2020. Currently, Yankton is projected to see its peak of active COVID-19 cases in late June, or perhaps sometime in July, 2020. It remains possible that Yankton could experience a dangerous spike in active cases that could threaten to overload our healthcare system. Without a replacement Ordinance granting emergency powers to act by resolution, our Commission would be unable to take swift action to slow the spread of the disease after June 8, 2020.

The purpose of COVID-19 Temporary Emergency Ordinance No. #2 is to simply keep and extend those powers of the City Commission beyond June 8, 2020. The Ordinance is structured similar to Ordinance #1033. However, in its current form, the Ordinance does not directly impose any business closures, gathering restrictions, or any other restrictions upon the public. Rather, it extends the power of the Commission to do so by passing a resolution at any future regular or special meeting. Here is a summary of the powers it grants to the Commission:

- (1) The Commission may close businesses of the same four general category groupings as regulated under Ordinance #1033 for the time prescribed within a future Commission resolution. The specific business types included or excluded from each category grouping may also be modified by resolution;
- (2) The Commission may impose operational or occupancy limitations on any business type for the period of time set within the resolution; and
- (3) The Commission may impose a 10-person “communal gathering” limitation in a similar manner to the regulation in Ordinance #1033 for the period of time set within the resolution.

Before the Commission exercises these powers, it must first receive a recommendation from the City’s Board of Health. If the Commission passes a resolution exercising any of these powers, a violation of such resolution is a class 2 misdemeanor punishable by a fine of up to \$500 and up to 30 days in the county jail.

If a majority of you are comfortable with the terms in this Ordinance, you may simply hold off on a second reading until this Commission is ready to exercise these powers. When you are ready to act, you may call a special meeting on 24 hour notice and adopt the ordinance making it effective the moment it is published in the Yankton P&D – likely the next day. Be advised, however, that once it is effective, you will still need to hold another special meeting to consider a health board recommendation and pass a resolution to exercise the powers contained within the ordinance.

Ross K. Den Herder, City Attorney

**ORDINANCE #1034**

**COVID-19 TEMPORARY EMERGENCY ORDINANCE NO. #2**

**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 213 countries and territories, 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 exist in Yankton County, South Dakota; and

**WHEREAS**, the CDC and health experts have recommended social distancing to slow the spread of the virus; 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**, the failure to successfully implement social distancing has resulted 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.

**WHEREASE**, the City of Yankton 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:

**Section 1.** Upon recommendation of the City of Yankton Board of Health and passage of a resolution of the Yankton Board of City Commissioners, 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 food service. These businesses may also continue to offer goods for sale in the same manner, so long as people are not permitted to gather in violation of Section 7 below. Any business continuing to operate in order to provide off-site consumption food service or sale of goods 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 business types closed by this Section 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 shall remain in effect for the period of time set forth in the resolution adopted by the Yankton Board of City Commissioners.

**Section 2.** Upon recommendation of the City of Yankton Board of Health and passage of a resolution of the Yankton Board of City Commissioners, 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, spas and massage services, estheticians, tattoo parlors, movie and live production theaters, event centers, meeting halls, and music and entertainment venues are directed to close and cease operations. These businesses may continue to offer goods for sale under the conditions outlined in Section 1. Any business continuing to operate in order to provide goods for sale 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

business types closed by this Section 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 shall remain in effect for the period of time set forth in the resolution adopted by the Yankton Board of City Commissioners.

**Section 3.** Upon recommendation of the City of Yankton Board of Health and passage of a resolution of the Yankton Board of City Commissioners, 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 any on-site consumption, but may continue to offer goods for sale under the conditions outlined in Section 1. Any business continuing to operate in order to provide goods for sale 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 business types closed by this Section 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 shall remain in effect for the period of time set forth in the resolution adopted by the Yankton Board of City Commissioners.

**Section 4.** Upon recommendation of the City of Yankton Board of Health and passage of a resolution of the Yankton Board of City Commissioners, 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. These businesses may continue to offer goods for sale under the conditions outlined in Section 1. Any business continuing to operate in order to provide goods for sale 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 business types closed by this Section 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 shall remain in effect for the period of time set forth in the resolution adopted by the Yankton Board of City Commissioners.

**Section 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 Section 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 of Yankton Board of Health and passage of a resolution of the Yankton Board of City Commissioners.

**Section 6.** Upon recommendation of the City of Yankton Board of Health and passage of a resolution of the Yankton Board of City Commissioners, the occupancy and operation of any business may be restricted in any manner deemed appropriate by the Yankton Board of City Commissioners to slow the spread of the virus causing the COVID-19 disease for a period of time established within the resolution. Each person violating an occupancy or operational restriction established by resolution of the Yankton Board of City Commissioners in accordance with this Section shall be deemed to be in violation of this Ordinance.

**Section 7.** Upon recommendation of the City of Yankton Board of Health and passage of a resolution of the Yankton Board of City Commissioners, it shall be unlawful In the City of Yankton for any person to participate in a “communal gathering” as defined herein for the period of time established within the resolution, 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 only if individuals not living within the same household remain at least six feet (6') from one another:
  - (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.

**Section 8.** Each person in violation of this Ordinance or in violation of any resolution passed in accordance with the terms 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.

**Section 9. Ordinance Sunset Date.** This Ordinance shall remain in effect for a period not to exceed One Hundred Eighty (180) Days following the date of publication of this Ordinance, 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 in accordance with SDCL 9-19-7. Any effective period of time identified in the other Sections of this Ordinance may be extended or reduced within the period of time covered by this Ordinance by a resolution of the Yankton Board of City Commissioners.

**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 and publication.

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

**CITY OF YANKTON**

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

ATTEST:

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

(SEAL)

Adopted:

1st Reading:

2nd Reading:

Publication Date:

Effective Date: (Date of Publication – Emergency Clause)