



## **Spearfish City Council**

Special Session Agenda

April 29, 2020 4:00 p.m.

Teleconference Meeting via Zoom

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### **1. Call to Order**

### **2. Roll Call**

### **3. Approve Agenda**

### **4. Declaration of Any Potential Conflicts-of-Interest**

### **5. COVID-19**

- A. Public Comment – Public comments are welcome; however, no action can be taken by the Council on comments received for items not on this agenda. Anyone wishing to have the Council consider a new item should complete a Citizen Request Form to be reviewed by administration.
- B. Approve Second Reading of Ordinance 1316 – An Emergency Ordinance to Address a Public Health Emergency by Implementing Certain Measures Which Have Been Deemed Necessary to Slow the Community Spread of Coronavirus 2019 (COVID-19).
- C. Adopt Resolution 2020-09 – An Emergency Resolution to Address a Public Health Emergency by Implementing Certain Measures Which Have Been Deemed Necessary to Slow the Community Spread of Coronavirus 2019 (COVID-19).

### **6. Mayor and Council**

### **7. Departmental Discussion**

## **8. Adjournment**

ADA Compliance: The City of Spearfish fully subscribes to the provisions of the Americans with Disabilities Act. If you desire to attend this public meeting and are in need of special accommodations, please notify the City Finance Office 12 hours prior to the meeting so that appropriate auxiliary aids and services are available.

## Michelle DeNeui

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**From:** Kaija Swisher  
**Sent:** Monday, April 27, 2020 1:34 PM  
**To:** Elected Officials  
**Cc:** Mike Harmon; Ashley McDonald; Michelle DeNeui; Paula Gengler  
**Subject:** FW: Online Form Submittal: Mayor & City Council

Please see message below (and add it to the council meeting packet as public comment).

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**From:** noreply@civicplus.com [mailto:noreply@civicplus.com]  
**Sent:** Monday, April 27, 2020 1:32 PM  
**To:** Kaija Swisher <Kaija.Swisher@cityofspearfish.com>  
**Subject:** Online Form Submittal: Mayor & City Council

### Mayor & City Council

Please Select the  
Appropriate Department

Mayor and City Council

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Name jeff kaitfors

---

Address 1 lourie lane

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City or Town spearfish

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State or Province South Dakota

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Zip or Postal Code 57783

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Phone 642-3654

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Email [kaitfors@midco.net](mailto:kaitfors@midco.net)

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Comments or Questions I am asking that you do not reopen the city Monday night. My wife Carol and I meet while in College here in 1973 and have lived here ever since. In those 47 years in Spearfish we have met hundreds of people here in town thru our jobs ( I worked for the High School for 40 years, Carol worked at the Sluice restaurant, Margies and Bells Steak House plus 20+ years as a Dept. Manager at Kmart and now at a assisted living facility.) Of all the people we have talked to NONE of them want the City reopened until at least June 1st. I ask that you think of the residents of the area and not to the small loud group who want it opened. Look at your families, Parents, Grand-Parents and all the elderly how live here. Do you really want them to get the

virus? If you open the town and the virus hits the town remember it will be on you. At least wait another week and get more public input as to how they feel. Very easy to do. Put a online poll on the City web site and or the Pioneer newspaper. They do polls all the time for their sports player of the week poll. It automatically collects your IP address so you can only vote once which stops people from voting over and over. Again I ask that you do not rush to reopen certain business. Please give it some very serious thought and be totally sure that what you do is the best for ALL people.

Thank you for all you do,  
Jeff Kaitfors

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Email not displaying correctly? [View it in your browser.](#)

## Michelle DeNeui

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**From:** Paula Gengler  
**Sent:** Tuesday, April 28, 2020 4:27 PM  
**To:** Elected Officials; Michelle DeNeui  
**Subject:** Message from Bob Burnett

Bob Burnett from American Family Insurance called today to support the re-opening of all businesses.

He said his son is a top figure in the National Guard in Texas and he believes from all the information he has received, we are safe to open.

He asked that I pass this information on to all of you.

Sincerely,

Paula Gengler  
Executive Assistant  
City of Spearfish  
605.642.1354  
625 N 5<sup>th</sup> Street  
Spearfish SD 57783  
paula.gengler@cityofspearfish.com



**Confidentiality Note:** This email, and any attachment to it, contains privileged and confidential information intended only for the use of the individual(s) or entity named on the email. If the reader of this email is not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that reading it is strictly prohibited. If you have read this email in error, please immediately return it to the sender and delete it from your system. Thank you.

**ORDINANCE NO. 1316 (version 3)**

**AN EMERGENCY ORDINANCE TO ADDRESS A PUBLIC HEALTH EMERGENCY BY IMPLEMENTING CERTAIN MEASURES WHICH HAVE BEEN DEEMED NECESSARY TO SLOW THE COMMUNITY SPREAD OF CORONAVIRUS 2019 (COVID-19).**

**WHEREAS**, the City of Spearfish has the authority pursuant to SDCL 9-29-1 to pass ordinances for the purpose of promoting the health, safety, morals, and general welfare, of the community; and

**WHEREAS**, the City has the power pursuant to SDCL 9-32-1 to do what is necessary or expedient for the promotion of health or the suppression of disease; and

**WHEREAS**, an outbreak of the disease COVID-19, which is caused by the novel coronavirus, has been detected across the world, including the United States; and

**WHEREAS**, cases of COVID-19 have been confirmed in most counties in South Dakota, including Lawrence County; and

**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, 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 COVID-19; and

**WHEREAS**, the CDC and health experts have recommended physical distancing to slow the spread of COVID-19, which 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 physical distancing, all schools in the state of South Dakota have been closed for the remainder of the school year; and

**WHEREAS**, the CDC recommends avoiding social gatherings of more than 10 people as well as eating or drinking at bars, restaurants, and food courts; and

**WHEREAS**, the failure to successfully implement physical 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 COVID-19 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 COVID-19; and

**WHEREAS**, Lawrence County has been declared to have significant community spread of COVID-19; and

**WHEREAS**, on March 31, 2020, the City of Spearfish adopted Ordinance 1314 ordering the closure or alteration in businesses practices of certain businesses. Ordinance 1314 went into effect on April 1, 2020; and

**WHEREAS**, public health officials in the state of South Dakota have projected the peak infection rate for COVID-19 will not occur until approximately June, 2020; and

**WHEREAS**, the federal government issued guidelines for local communities to follow when considering reopening; and

**WHEREAS**, the number of confirmed positive cases in Lawrence County has not increased since reaching 9 cases on April 2, 2020; and

**WHEREAS**, Ordinance 1314 is due to expire on April 30, 2020; and

**NOW THEREFORE, BE IT ORDAINED**, by the Common Council of the City of Spearfish that:

1. All restaurants, food courts, coffee houses, bars, breweries, distilleries, wineries, clubs, cafes, hookah lounges, cigar bars, vaping lounges, and other similar places of public accommodation offering food, beverages, or other products for on-site

consumption, including any alcohol licensees with on-sale privileges, must adhere to the following:

- 1.1. Occupied tables, booths, or other areas intended to accommodate on-site consumption must be a minimum of 6 feet apart and the business must not allow 10 or more patrons at any table, booth, or other area intended to accommodate on-site consumption.
- 1.2. Such businesses may not allow patrons to congregate within 6 feet in groups of 10 or more. To ensure compliance with the distancing requirements, each business must establish the maximum allowed occupancy based on a formula of 1 person (inclusive of employees and patrons) per 36 square feet of public area where customers frequent excluding restrooms.
- 1.3. The maximum allowed occupancy under the above formula may not exceed the maximum occupancy of the business as allowed by the City of Spearfish under the provisions of the International Fire Code.
- 1.4. The maximum allowed occupancy must be posted at all entrances to the business in a manner that is visible;
2. All recreational facilities, public pools, health clubs, athletic facilities, gyms, fitness centers, theaters, including movie theaters and music or entertainment venues, arcades, bingo halls, bowling alleys, casinos, and other similar recreational or entertainment facilities must adhere to the following:
  - 2.1. Businesses must ensure there are fewer than 10 patrons in the business unless the size of the business site is large enough to allow 6 feet of distance between patrons and the business enforces distancing requirements.
  - 2.2. To ensure compliance with the distancing requirements, each business must establish the maximum allowed occupancy based on a formula of 1 person (inclusive of employees and patrons) per 36 square feet of public area where customers frequent excluding restrooms.
  - 2.3. The maximum allowed occupancy under the above formula may not exceed the maximum occupancy of the business as allowed by the City of Spearfish under the provisions of the International Fire Code.
  - 2.4. The maximum allowed occupancy must be posted at all entrances to the business in a manner that is visible;
4. Unless earlier repealed by action by the City Council, this ordinance shall remain in effect until July 31, 2020, at which time it shall be automatically repealed unless specifically readopted for an additional period of time by the City Council.

5. In order to provide the City with the ability to carry out the purpose of this ordinance in a manner to protect the comfort, repose, health, or safety of others, 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.
6. Any violation of this ordinance is subject to the general penalty provision in Section 1-14 of the Spearfish City Ordinances. Each day a violation of this ordinance is allowed to occur is considered a separate offense.

**BE IT FURTHER ORDAINED**, that, pursuant to SDCL 9-19-13, this ordinance is necessary to suppress disease and 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 5th day of May, 2020.

**CITY OF SPEARFISH**

By: \_\_\_\_\_  
Dana Boke, Its Mayor

(Seal)

Attest:

\_\_\_\_\_  
Michelle DeNeui, Finance Officer

First Reading: April 29, 2020  
Second Reading: May 5, 2020  
Published: May 6, 2020  
Effective: May 6, 2020

## **RESOLUTION 2020-09**

### **AN EMERGENCY RESOLUTION TO ADDRESS A PUBLIC HEALTH EMERGENCY BY IMPLEMENTING CERTAIN MEASURES WHICH HAVE BEEN DEEMED NECESSARY TO SLOW THE COMMUNITY SPREAD OF CORONAVIRUS 2019 (COVID-19)**

**WHEREAS**, the City of Spearfish has the authority pursuant to SDCL 9-29-1 to pass resolutions for the purpose of promoting the health, safety, morals, and general welfare, of the community; and

**WHEREAS**, the City has the power pursuant to SDCL 9-32-1 to do what is necessary or expedient for the promotion of health or the suppression of disease; and

**WHEREAS**, an outbreak of the disease COVID-19, which is caused by the novel coronavirus, has been detected across the world, including the United States; and

**WHEREAS**, cases of COVID-19 have been confirmed in most counties in South Dakota, including Lawrence County; and

**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, 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 COVID-19; and

**WHEREAS**, the CDC and health experts have recommended physical distancing to slow the spread of COVID-19, which 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 physical distancing, all schools in the state

of South Dakota have been closed for the remainder of the school year; and

**WHEREAS**, the CDC recommends avoiding social gatherings of more than 10 people as well as eating or drinking at bars, restaurants, and food courts; and

**WHEREAS**, the failure to successfully implement physical 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 COVID-19 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 COVID-19; and

**WHEREAS**, Lawrence County has been declared to have significant community spread of COVID-19; and

**WHEREAS**, on March 31, 2020, the City of Spearfish adopted Ordinance 1314 ordering the closure or alteration in businesses practices of certain businesses. Ordinance 1314 went into effect on April 1, 2020; and

**WHEREAS**, public health officials in the state of South Dakota have projected the peak infection rate for COVID-19 will not occur until approximately June, 2020; and

**WHEREAS**, the federal government issued guidelines for local communities to follow when considering reopening; and

**WHEREAS**, the number of confirmed positive cases in Lawrence County has not increased since reaching 9 cases on April 2, 2020; and

**WHEREAS**, Ordinance 1314 is due to expire on April 30, 2020; and

**NOW THEREFORE, BE IT RESOLVED** by the Common Council of the City of Spearfish, Lawrence County, South Dakota, that:

1. All restaurants, food courts, coffee houses, bars, breweries, distilleries, wineries, clubs, cafes, hookah lounges, cigar bars, vaping lounges, and other similar places of public accommodation offering food, beverages, or other products for on-site consumption, including any alcohol licensees with on-sale privileges, must adhere to the following:
  - 1.1. Occupied tables, booths, or other areas intended to accommodate on-site consumption must be a minimum of 6 feet apart and the business must not

allow 10 or more patrons at any table, booth, or other area intended to accommodate on-site consumption.

- 1.2. Such businesses may not allow patrons to congregate within 6 feet in groups of 10 or more. To ensure compliance with the distancing requirements, each business must establish the maximum allowed occupancy based on a formula of 1 person (inclusive of employees and patrons) per 36 square feet of public area where customers frequent excluding restrooms.
- 1.3. The maximum allowed occupancy under the above formula may not exceed the maximum occupancy of the business as allowed by the City of Spearfish under the provisions of the International Fire Code.
- 1.4. The maximum allowed occupancy must be posted at all entrances to the business in a manner that is visible;
2. All recreational facilities, public pools, health clubs, athletic facilities, gyms, fitness centers, theaters, including movie theaters and music or entertainment venues, arcades, bingo halls, bowling alleys, casinos, and other similar recreational or entertainment facilities must adhere to the following:
  - 2.1. Businesses must ensure there are fewer than 10 patrons in the business unless the size of the business site is large enough to allow 6 feet of distance between patrons and the business enforces distancing requirements.
  - 2.2. To ensure compliance with the distancing requirements, each business must establish the maximum allowed occupancy based on a formula of 1 person (inclusive of employees and patrons) per 36 square feet of public area where customers frequent excluding restrooms.
  - 2.3. The maximum allowed occupancy under the above formula may not exceed the maximum occupancy of the business as allowed by the City of Spearfish under the provisions of the International Fire Code.
  - 2.4. The maximum allowed occupancy must be posted at all entrances to the business in a manner that is visible;
3. This resolution shall remain in effect until May 10, 2020, at which time it shall be automatically repealed unless specifically readopted for an additional period of time by the City Council.

**BE IT FURTHER RESOLVED**, that, pursuant to SDCL 9-19-13, this resolution is necessary to suppress disease and 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 29th day of April, 2020.

**CITY OF SPEARFISH**

(Seal)

By: \_\_\_\_\_  
Dana Boke, its Mayor

Attest:

\_\_\_\_\_  
Michelle DeNeui, Finance Officer

Adopted: April 29, 2020  
Published: May 5, 2020  
Effective: May 5, 2020