



Spearfish City Council
Special Session Minutes
April 29, 2020 4:00 p.m.

The Spearfish City Council met at 4:00 p.m. on Wednesday, April 29, 2020 via Zoom Teleconference. Mayor Boke presided and called the meeting to order. Roll call was taken with the following members present: Clark, Eisenbraun, Herrmann, Hodgs, Jacobs and Klarenbeek. Absent: None. Also present: City Administrator Harmon, City Planner Watson, City Attorney McDonald, and Finance Officer DeNeui.

Klarenbeek moved, Eisenbraun seconded and with Clark, Eisenbraun, Herrmann, Hodgs, Jacobs and Klarenbeek voting aye motion passed to approve the agenda. There were no declarations of any potential conflict-of-interest.

Public Comment – The public comment section was opened at 4:04 p.m. with comments received from Nathan Hoogshagen, Executive Director of Spearfish Downtown Business Association along with a small business owner, Mistie Caldwell, Executive Director of Visit Spearfish, Luke Donovan, owner of False Bottom Bar, and resident Bill Warner. Comments were related to implementation of CDC guidelines with regards to gathering of people. Public comment section was closed at 4:14 p.m.

Ordinance 1316 – City Attorney McDonald reviewed a new version of Ordinance 1316. This version removes reference to Governor Noem’s Executive Order 2020-12 but includes provisions that include any “enclosed retail business that promotes public gatherings” must suspend or modify business practices that involve 10 or more people in an enclosed space where physical separation of at least 6 feet is not possible, businesses must establish a maximum occupancy rate based on 1 person per 36 square feet of public area in the business and post that maximum occupancy at the business entrance, and businesses should continue to consider offering models that do not involve public gatherings, such as takeout, delivery, drive-thru, curbside services, social distancing, or other innovative practices that do not involve public gatherings in an enclosed space. McDonald noted that since significant changes were made following the first reading of the ordinance, an additional second reading and publication would be required before the ordinance becomes effective on May 6, 2020. Ordinance 1314, which has business restrictions, ends on April 29, 2020 at midnight. Following discussions, Clark moved to approve the second reading of Ordinance 1316 with the additional second reading to be held at an undetermined date. Motion failed for lack of a second. Klarenbeek moved, Herrmann seconded and with Clark, Eisenbraun, Herrmann, Hodgs, Jacobs and Klarenbeek voting aye motion passed to table the second reading of Ordinance 1316.

Resolution 2020-09 – City Attorney McDonald reviewed the language of Resolution 2020-09 which includes recommendations to businesses for limited occupancy but does not have an enforcement mechanism. Clark moved to table Resolution 2020-09, motion failed for lack of a second. Eisenbraun moved and Klarenbeek seconded to adopt Resolution 2020-09 with changes to make the resolution effective until July 31, 2020 and the City Council has the ability to repeal the resolution at any time. With Clark, Eisenbraun, Herrmann, Hodgs, Jacobs and Klarenbeek voting aye motion passed to adopt Resolution 2020-09 as follows:

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 July 31, 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

By: _____
Dana Boke, its Mayor

(Seal)

Attest:

Michelle DeNeui, Finance Officer

Adopted: April 29, 2020

Published: May 7, 2020

Effective: May 7, 2020

Mayor Boke and council members reminded all staff and citizens to continue follow safety precautions as the community is not over the COVID-19 pandemic.

There being no further business, Clark moved, Jacobs seconded and all voted to adjourn at 4:47 p.m.

Dated this 29th day of April, 2020.

CITY OF SPEARFISH

By: _____
Dana Boke, Mayor

ATTEST:

Michelle DeNeui, Finance Officer

Published once at the approximate cost of _____.