

## **Emergency Ordinance 20-006**

### **An Emergency Ordinance to Stay-at-Home for All within the City of Brookings to Limit the Spread of COVID-19 in the City of Brookings; and Other Restrictions within the City of Brookings, South Dakota; Declaring an Emergency, Providing for an Effective Date and a Time for Termination.**

Be It Ordained by the City Council of the City of Brookings, South Dakota as follows:

#### **SECTION I.**

Whereas, the World Health Organization declared the outbreak of COVID-19 as a worldwide pandemic as of March 11, 2020; and

Whereas, there is currently no vaccine or drug therapy available for COVID-19; and

Whereas, the President of the United States declared a national emergency concerning the novel coronavirus disease COVID-19 on March 13, 2020; and

Whereas, Governor Kristi Noem declared by Executive Order 2020-04 and 2020-15 that a public health State of Emergency exists in all counties in the State of South Dakota as a result of COVID-19; and

Whereas, evidence shows that COVID-19 is now spreading across the United States with the confirmation of community spread in several counties in South Dakota, which indicates a significantly increasing risk of exposure and infection to Brookings residents and creates an extreme public health risk; and

Whereas, local hospital administrators and health care providers have expressed concerns that unless the spread of COVID-19 is limited, existing health care facilities may be insufficient to care for those who become sick; and

Whereas, this Ordinance is enacted in accordance with the advice and expertise of health professionals of Brookings Health System, and the measures herein are the least restrictive measures necessary to protect the public from the COVID-19 pandemic and prevent the overwhelming of the community's medical resources; and

Whereas, elderly people and those who are vulnerable as a result of illness should take additional precautions. People at high risk of severe illness, including elderly people and those who are sick are urged to stay in their residence to the extent possible except as necessary to seek medical care; and

Whereas, this Ordinance is enacted on the advice of leading national health authorities that no locality, regardless of whether they have already identified COVID-19 cases, will be immune from the spread of the virus, scientific evidence regarding the most effective

approaches to slow the transmission of communicable diseases generally and COVID-19 specifically; as well as best practices as currently known and available to protect vulnerable members of the public from avoidable risk of serious illness or death resulting from exposure to COVID-19. Although most individuals who contract COVID-19 do not become seriously ill, persons with mild symptoms and asymptomatic persons with COVID-19 may place members of the public and especially other vulnerable members of the public at significant risk; and

Whereas, based on the foregoing concerns, the City Council has determined that the closure of venues and facilities where members of the public congregate within the City is critical to minimize the risk of expedited transmission that would, if unimpeded, place an overwhelming burden and have devastating impacts on the community's healthcare systems, facilities, supplies, and providers; and

Whereas, this Ordinance, in conjunction with Ordinance 20-005 will further reduce the likelihood that most high-risk individuals will be exposed to COVID-19, and it will thereby slow the spread of COVID-19 in our community. By reducing the spread of COVID-19, this Ordinance will help preserve the City's critical healthcare capacity.

1. Each of the provisions of this Ordinance are effective immediately upon adoption and shall continue until 11:59 p.m. on May 6, 2020.
2. All individuals currently within the City of Brookings are ordered to stay at home, their place of residence, or current place of abode (hereinafter "residence") except as set forth herein. To the extent individuals are using shared or outdoor spaces when outside their residence, they must at all times and as much as reasonably possible, maintain social distancing of at least six (6) feet from any other person, with the exception of family or household members, consistent with the Social Distancing Requirements defined herein. All persons may leave their homes or place of residence only for Essential Activities all as defined below.

Individuals whose residences are unsafe or become unsafe, such as victims of domestic violence, are permitted and urged to leave their home and stay at a safe alternative location.

3. Non-essential businesses and operations must cease. All businesses and operations in the City of Brookings, except Essential Businesses and Operations as defined below, are required to cease all activities within the City except Minimum Basic Operations, as defined below.
4. Prohibited Activities. All public and private gatherings of any number of people except those from a single household or living unit are prohibited, except for the limited purposes permitted by this Ordinance. Any gathering of more than ten people is prohibited unless exempted by this Ordinance. Nothing in this Ordinance prohibits the gathering of members of a single household or residence.

All places of indoor public amusement, including, locations with museums, bowling alleys, movie and other theaters, concert and music halls shall be closed.

5. Essential Activities Permitted. Persons may leave their residences, returning immediately thereafter, and travel to perform any of the following “Essential Activities” and workers may enter the City of Brookings to perform any of the following “Essential Activities”:
  - a. For Health and Safety: To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members (including, but not limited to, pets) such as, by way of example only and without limitation, obtaining medical supplies or medication, visiting a health care professional, or obtaining supplies they need to work from home.
  - b. For Supplies and Services: To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example only and without limitation, canned food, dry goods, fresh fruit and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products, and products necessary to maintain the safety, sanitation, and essential operation of residences.
  - c. For Outdoor Activity: To engage in outdoor activity, provided the individuals comply with Social Distancing Requirements defined herein such as, by way of example and without limitation, walking, hiking or running.
  - d. For Certain Types of Work: i) To perform work at an Essential Business and ii) to perform Minimum Basic Operations at a business not defined as an Essential Business.
  - e. To Care of Others: To care for a family member or pet in another household.
6. Definitions Pertaining to Essential Business. Definitions for the purpose of this Ordinance are defined as follows:
  - a. Essential Businesses: In order to slow the spread of COVID-19, it is necessary to reduce the instances where individuals interact with one another in a manner inconsistent with the Social Distancing Requirements as defined below. Many of those interactions occur at work. At the same time, it is necessary that certain businesses essential to the response to COVID-19, necessary to the infrastructure of the City of Brookings, State of South Dakota, or United States of America or imperative for the day-to-day life residents, remain open.

For purposes of this Ordinance, an Essential Business includes the following businesses:

- i. **Healthcare Operations:** Including hospitals, clinics, dentists (for emergency care only), pharmacies, pharmaceutical and biotechnology companies, other healthcare facilities, health-related laboratory services, healthcare suppliers, home healthcare service providers, physical therapy, and chiropractic services and massage therapy, mental health providers, or any related and/or ancillary healthcare services. "Healthcare Operations" also includes veterinary care and all healthcare services provided to animals. This exemption shall be construed broadly to avoid any impacts to the delivery of healthcare, broadly defined. "Healthcare Operations" does not include fitness, exercise gyms, one-on-one or group trainers.
- ii. **Essential Governmental Functions:** All services needed to ensure the continuing operation of the government agencies and the maintenance of public property. All Essential Governmental Functions shall be performed in compliance with Social Distancing Requirements as defined herein, to the greatest extent possible. The Courthouse and all legal matters held therein are essential governmental functions.
- iii. **Essential Infrastructure:** Includes, but is not limited to, public works, construction, construction of housing or buildings, airport operations, water, sewer, gas, electrical, roads/highways, pathways, public transportation, solid waste collection and removal, internet, and telecommunications systems (including the provision of essential global, national and local infrastructure for computing services, business infrastructure, communications, and web-based services), provided that they carry out these services or that work in compliance with Social Distancing Requirements as defined by this Ordinance, to the greatest extent possible.
- iv. **Human Services Operations:** For the purposes of this Ordinance, individuals may leave their residence to work for or obtain any Human Services Operations. Human Services Operations includes, but is not limited to: long-term care facilities; day care centers, day care group homes; residential settings and shelters for adults, seniors, children, and/or people with developmental disabilities, intellectual disabilities, substance use disorders, and/or mental illness; transitional facilities; home-based settings to provide services to individuals with physical, intellectual, and/or developmental disabilities, seniors, adults, and children; field offices that provide and help to determine eligibility for basic needs

including food, cash assistance, medical coverage, child care, vocational services, rehabilitation services, developmental centers, adoption agencies; businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged individuals, individuals with physical, intellectual, and/or developmental disabilities, or otherwise needy individuals.

- v. CISA List: On March 28, 2020, the US. Department of Homeland Security, Cybersecurity Infrastructure Security Agency (CISA), issued a Memorandum on Identification of Essential Critical Infrastructure Workers During Response. The definition of Essential Businesses and Operations includes all the workers identified in that Memorandum and any subsequent amendments thereto.
- vi. Stores That Sell Groceries and Medicine: Grocery stores, farmer's markets, food banks, convenience stores, and other establishments engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, pet supplies, fresh meats, fish, poultry, and any other household consumer products (such as cleaning and personal care products) and specifically includes their supply chain and administrative support operations. This includes stores that sell groceries, medicine, including medication not requiring a medical prescription, and also sell other non-grocery products, wholesale items and products necessary to maintaining the safety, sanitation, and essential operation of residences.
- vii. Food and Beverage Production and Agriculture: Food and beverage manufacturing, production, processing, and cultivation, including greenhouses, farming and livestock operations, baking, fishing, and other production agriculture, including cultivation marketing, production, and distribution of animals and goods for consumption; and businesses that provide food, shelter, and other necessities of life for animals, including animal shelters, rescues, kennels, and adoption facilities.
- viii. Charitable, Religious and Social Services: Businesses and organizations that provide food, shelter, social services, religious and pastoral services, and other necessities of life for spirituality, economically disadvantaged, people with disabilities and persons who require assistance and protection, and individuals who need assistance as a result of this emergency.
- ix. Media: Newspapers, television, radio, and other media services.

- x. Gas stations and businesses needed for transportation: Gas stations and auto supply, auto repair, farm equipment, construction equipment, boat repair, bicycle shops, and auto-related facilities.
- xi. Financial and Insurance Institutions: Banks, credit unions, appraisers, title companies, insurance companies, and related financial and insurance institutions.
- xii. Hardware and supply stores: Hardware stores and businesses that sell electrical, plumbing, heating, air conditioning, and ventilation material.
- xiii. Sport Stores: Sporting goods stores.
- xiv. Critical Trades: Plumbers, electricians, exterminators, internet or broadband providers, cleaning and janitorial staff for commercial and governmental properties, security staff, operating engineers, HV/AC, painting, cleaning services and others who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, Essential Activities, and Essential Businesses.
- xv. Mail, Post, Shipping, Logistics, Delivery, and Pick-Up Services: Post offices and other businesses that provide shipping and delivery services, and businesses that ship or deliver groceries, food, alcoholic and non-alcoholic beverages, and goods through commercial or government channels.
- xvi. Educational Institutions: Public and private daycare through 12th grade schools, colleges, and universities.
- xvii. Laundry Services: Laundromats, dry cleaners, and laundry service providers.
- xviii. Restaurants for Consumption Off-Premises: Restaurants and other facilities that prepare and serve food, but only for delivery or curbside carry out, as set forth in Brookings Ordinance No. 20-005.
- xix. Transportation: Airports, taxis, transportation network providers, commercial and public transportation and logistics providers, and other private transportation providers providing transportation services necessary for Essential Activities and other purposes expressly set forth herein.
- xx. Home-Based Care: Businesses and organizations that provide home-based care for seniors, adults, and children, including people with developmental disabilities, intellectual disabilities, substance abuse

disorders or mental illness, including nannies who may travel to the individual's home to provide care.

- xxi. Residential Facilities and Shelters: Residential facilities and shelters for seniors, adults, and children, including people with developmental disabilities, intellectual disabilities, substance abuse disorders or mental illness, including nannies who may travel to the individual's home to provide care.
- xxii. Professional Services: Professional services such as architecture, engineering, legal, accounting, and other professional services, including those professional services provided for Essential Business.
- xxiii. Manufacture, distribution, and supply chain for critical products and industries: Manufacturing companies, distributors, and supply chain companies producing and supplying essential products and services in and for industries such as pharmaceutical, technology, biotechnology, healthcare, chemicals and sanitization, waste pickup and disposal, agriculture, food and beverage, transportation, energy, steel and steel products, petroleum and fuel, mining, construction, national defense, communications, as well as products used by other Essential Businesses and Operations.
- xxiv. Funeral Services: Funeral homes, mortuaries, crematoriums, cemeteries, graveyards and other related services.
- xxv. Off-sale Alcoholic Beverage Licensees: Businesses with a liquor, malt beverage and/or wine license for off-sale consumption.
- xxvi. Supplies to work from home: Businesses that sell, manufacture, or supply products needed for people to work from home.
- xxvii. Supplies for Essential Businesses and Operations: Businesses that sell, manufacture, or supply other Essential Businesses and Operations with the support or materials necessary to operate, including computers, audio and video electronics, household appliances, IT and telecommunication equipment, hardware, paints, flat glass, electrical, plumbing, heating, air conditioning, and ventilation material, sanitary equipment, personal hygiene products, food, food additives, ingredients and components, medical and orthopedic equipment, optics and photography equipment, diagnostics, food and beverages, chemicals, soaps, and detergent, and firearm and ammunition suppliers and retailers for the purposes of safety and security.

- xxviii. Overnight Lodging: Overnight lodging and short-term lodging facilities (including but not limited to hotels, motels, condos, townhomes, single-family residences, guest homes, RV parks, and all camping on public or private lands) within the City of Brookings, South Dakota that check-in, rent, or lease to Essential Visitors and Primary Residents.
  - xxix. Businesses Excluded from the List: Businesses excluded from the list of Essential Businesses set forth above that believe they may be essential may direct requests to be included to the City Manager of the City of Brookings. The City Manager may grant such request if it determines that it is in the best interest of the community to have the business continue operations in order to properly respond to this COVID-19 pandemic.
- b. Essential Visitor means any individual renting, lodging, or camping for an amount of time less than thirty days for the purposes of work within the City of Brookings.
  - c. Primary Residents are individuals who:
    - i. Rent, lodge, or camp for periods of thirty days or more; or
    - ii. No matter the length of stay, are in the United States on a Visa or similar immigration status; or
    - iii. No matter the length of stay, whose primary address is within the City of Brookings; or
    - iv. No matter the length of stay, those who are employed at a business in Brookings County, South Dakota.
  - d. Minimum Basic Operations includes the following, providing that employees comply with the Social Distancing Requirements as defined herein, to the extent possible, while carrying out such operations:
    - i. The minimum necessary activities to maintain the value of the business's inventory, ensure security, process payroll and employee benefits, or for related functions.
    - ii. The minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences.
  - e. Social Distancing Requirements includes maintaining at least six-foot distance, washing hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer, covering coughs or sneezes



(into the sleeve or elbow, not hands), regularly cleaning high touch surfaces and not shaking hands.

7. For clarity, businesses and organizations that are not defined herein as an Essential Business may also continue operations consisting exclusively of employees or contractors performing activities remotely and/or consisting of Minimum Basic Operations. All Essential Businesses are encouraged to remain open. To the greatest extent feasible, Essential Businesses shall comply with Social Distancing Requirements as defined herein for both employees and members of the public, including, but not limited to, when any customers are standing in line.
8. That residents of the City of Brookings who leave the geographic area of the State of South Dakota and any visitors, excepting workers, that visit Brookings, South Dakota from that same geographic area shall limit movement and gathering with other individuals who are not their immediate family upon their return to the City of Brookings. Persons may leave their residences only to perform any of the Essential Activities, as defined above, for a period of self-quarantine lasting at least fourteen days or self-isolation until any fever or respiratory illness has resolved and they have returned to normal health for at least three days, whichever is longer.

## **SECTION II.**

The provisions of this Ordinance are effective through 11:59 p.m. on May 6, 2020 unless sooner repealed, after which time they shall become null and void.

## **SECTION III.**

If any section, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portions of the ordinance.

## **SECTION IV.**

This ordinance is intended to supplement Ordinance No. 20-005 which shall remain in full force and effect. 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 adoption following a second reading of this ordinance.

Dated this 14<sup>th</sup> day of April, 2020.

CITY OF BROOKINGS

ATTEST:

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Keith W. Corbett, Mayor

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Bonnie Foster, City Clerk

(SEAL)