

## **ORDINANCE 878**

### **COVID-19 TEMPORARY EMERGENCY ORDINANCE NO. #3**

**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 Dell Rapids 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

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

**WHEREAS**, on March 13, 2020, the Governor declared an emergency in the State of South Dakota in response to the COVID-19 pandemic; and

**WHEREAS**, on March 16, 2020, the White House issued guidance recommending that social gatherings of more than ten people be avoided and that people avoid eating or drinking at bars, restaurants, and food courts; and

**WHEREAS**, the CDC and health experts have recommended social 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 social distancing, all schools in the state of South Dakota have been closed for the remainder of the school year; and

**WHEREAS**, the guidance issued by the White House further recommended that in states with evidence of community transmission, bars, restaurants, food courts, gyms, and other indoor and outdoor venues where people congregate should be closed; and

**WHEREAS**, many states and communities across the country have already implemented the White House recommendations by ordering all bars, restaurants, food courts, gyms, and other indoor and outdoor venues where people congregate be closed until the public health emergency is over; and

**WHEREAS**, the failure to successfully implement social 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**, 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**, current projections released by the state Department of Health, endorsed by the state's major health systems and informed by scientific data and expertise, indicate that due to the citizens of South Dakota following social distancing, the potential demand of hospitals due to the novel coronavirus has been reduced, South Dakota has flattened its curve slowing the spread of COVID-19, and it may be possible to resume normal activity with a well-followed and deliberate plan; and

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

**WHEREAS**, on the 6<sup>th</sup> day of April, 2020, the Governing Body of the City of Dell Rapids adopted Ordinance No. 876 to establish a temporary emergency ordinance to address the Covid-19 health crisis, with an effective date of April 8, 2020, and an expiration date of May 4, 2020; 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 ORDAINED** by the Governing Body of the City of Dell Rapids, South Dakota:

Section 1: That Regulations relating to COVID-19 are hereby adopted as follows:

(a) Definitions:

1. "Social distancing" as used herein shall mean separation of at least six feet between individuals.
2. "Enclosed retail business that promotes public gathering" as used herein shall mean any enclosed facility operating as a bar, restaurant, café, casino, coffee shop, recreational or athletic facility, health club, or entertainment venue. Such term shall further include any parking lot and/or patio or other outdoor seating area for such facility.
3. "Patron" as used herein shall refer to a customer of the business as defined in subparagraph (2) above, and does not include employees or staff of such business.

(b) City-Owned Property

1. The following City buildings and venues will remain closed to the general public until further notice by the Mayor:
  - a. City Hall
  - b. Dell Rapids Carnegie Library

- c. Swimming pool
  - d. Public bathrooms
  - e. Playground equipment, basketball courts, tennis courts, baseball & softball fields.
2. Dell Rapids City Hall will continue to be used for public meetings, but will be closed to the public when a public meeting is not in session. The public is encouraged to watch public meetings remotely in order to allow for proper social distancing as recommended by the CDC.

(c) Private Businesses

1. Any enclosed retail business that promotes public gathering may resume operations in a manner that allows for reasonable physical distancing, good hygiene and appropriate sanitation, according to the attached Covid-19 Business Checklists published by the South Dakota Department of Health. Such businesses should also continue utilizing business models that do not involve public gatherings, including takeout, delivery, drive-thru, curbside service, and off-site services, wherever possible.
- a. The restrictions set forth in the above paragraph shall not apply to the following:
    - i. Healthcare facilities, residential care facilities, and congregate care facilities,
    - ii. Childcare facilities;
    - iii. Businesses that offer food and beverages solely for off-site consumption, including grocery stores, markets, convenience stores, pharmacies, drug stores, and food pantries, other than the portion of such businesses that are designated and intended for seated, on-site consumption;
    - iv. Hotel/motel room service;
    - v. Traditional golf courses, but any bar or restaurant associated with a golf course shall abide by the above restrictions;
    - vi. Any emergency facility necessary for the response to the current COVID-19 emergency or any other community emergency or disaster.

The businesses and entities identified in this Section (c)(1)(a) shall take all reasonable measures to ensure social distancing and sanitation is being utilized as is feasible, and comply with federal and state health guidelines in order to prevent the spread of the virus causing COVID-19. Such businesses are further encouraged to consider, to the extent applicable and feasible, providing for special access periods for populations particularly vulnerable to COVID-19.

- b. Nothing herein shall act or be interpreted as authorization for any off-sale alcoholic beverage sales by any licensee in violation of their respective license as defined in SDCL Title 35.

2. All restaurants, food courts, coffee houses, bars, cafes, 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, shall continue limiting occupancy to not more than ten patrons at any given time or not more than fifty (50%) percent of the maximum occupancy as determined by the City of Dell Rapids building or fire codes, whichever is greater.
  - a. Such businesses shall attempt to establish a minimum six-foot distance between any tables, chairs, booths and barstools. This provision does not need to be observed between members of the same household. Larger businesses are encouraged to establish a reservation only policy to prevent patrons from congregating while waiting for a table, booth or chair.
  - b. The maximum allowed occupancy shall be posted at all entrances to the business in a manner that is visible.
  - c. All places of public accommodation offering food, beverages, or other products for on-site consumption shall encourage employees to wash hands at regular intervals, shall conduct daily employee health screenings and shall encourage all employees to wear a mask which covers their nose and mouth when serving customers.
3. All recreational facilities, 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 shall continue limiting occupancy to not more than ten patrons at any given time or not more than fifty (50%) percent of the maximum occupancy as determined by the City of Dell Rapids building or fire codes, whichever is greater.
  - a. Such facilities shall attempt to establish a minimum six-foot distance between any tables, chairs or stations. This provision does not need to be observed between members of the same household. Larger facilities are encouraged to establish a reservation only policy to prevent patrons from congregating while waiting to use the facility.
  - b. The maximum allowed occupancy must be posted at all entrances to the facility in a manner that is visible.
  - c. Gyms and fitness facilities should clean and disinfect equipment and/or mats between each use. Casinos should clean and disinfect video lottery machines and chairs between each customer. Bowling alleys should clean and disinfect rental shoes and bowling balls between each customer.
4. The business entity, owner, and supervising manager of any business that refuses to comply with these regulations as adopted by ordinance by the city council shall be deemed to be in violation of the ordinance.

5. All other employers, both for profit and not for profit, within the City of Dell Rapids are urged and encouraged to:

- a. Implement procedures to ensure social distancing between persons as is feasible and to ensure the business or entity operates in compliance with federal and state guidelines to prevent the spread of the virus causing COVID-19;
- b. Allow employees and staff to telework if possible;
- c. Limit unnecessary work gatherings;
- d. Eliminate non-essential travel; and
- e. Consider regular health checks including guidance from the CDC for COVID-19 screening if possible.

(d) Citizens of Dell Rapids

All individuals within the City of Dell Rapids are urged and encouraged to:

- a. Review and practice the recommended CDC hygiene practices designed to stop the spread of the virus causing COVID-19;
- b. Know the signs and symptoms of COVID-19, call a healthcare provider for instructions if experiencing symptoms of COVID-19, and stay at home if sick;
- c. Understand that those who are particularly vulnerable to COVID-19, including those over the age of 60 and those suffering from respiratory or cardiac conditions, should take extra precautions and remain home if possible;
- d. Implement social distancing measures and support businesses that are adjusting their business model to reduce the spread of the virus causing COVID-19;
- e. Assist those who work in essential jobs such as emergency personnel, medical professionals, and law enforcement; and
- f. Spend time outdoors while practicing social distancing in compliance with CDC guidelines.

Section 2. Unless earlier repealed by Resolution of the City Council, this ordinance shall remain in effect until June 3, 2020, at which time it shall be automatically repealed unless specifically readopted for an additional period of time by the City Council.

Section 3. All ordinances which conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 4. This Ordinance shall apply to all locations within the city limits of Dell Rapids and within one mile of the city limits.

Section 5. Each person in violation of this ordinance shall be guilty of a Class 2 misdemeanor, and shall be subject to the penalties established under Ordinance Sec. 1-4 of the Revised Ordinances of the City of Dell Rapids. Each day a violation of this ordinance occurs is considered a separate offense.

**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 of Dell Rapids and shall become effective immediately upon passage.

Dated at Dell Rapids, South Dakota this 4th day of May, 2020.

FOR THE GOVERNING BODY OF THE  
CITY OF DELL RAPIDS, SOUTH DAKOTA

ATTEST: By \_\_\_\_\_  
Tom Earley, Mayor

By \_\_\_\_\_  
Claire Baartman, Finance Officer