



**NOTICE OF SPECIAL MEETING CALLED BY COUNCILMEMBERS
AGENDA FOR THE SPECIAL CITY COUNCIL MEETING
CITY OF ABERDEEN, SOUTH DAKOTA
THURSDAY, JUNE 11, 2020, AT 5:00 P.M.
CITY COUNCIL CHAMBERS, CITY HALL, 123 S. LINCOLN ST.**

1. **ROLL CALL**
2. **PLEDGE OF ALLEGIANCE**
3. **OLD BUSINESS**
 - A. **DISCUSSION AND POSSIBLE SECOND READING AND FINAL ADOPTION OF EMERGENCY ORDINANCE NO. 4 REGARDING THE NOVEL CORONAVIRUS COVID-19 PUBLIC HEALTH CRISIS.**
4. **NEW BUSINESS**
 - A. **DISCUSSION AND POSSIBLE FIRST READING AND PASSAGE OF RESOLUTION NO. 20-06-06R EXTENDING EMERGENCY ORDINANCE NO. 3 REGARDING THE NOVEL CORONAVIRUS COVID-19 PUBLIC HEALTH CRISIS.**
5. **ADJOURN**

****COUNCIL CHAMBERS GUIDELINES DURING COVID-19 PANDEMIC****

ALL PERSONS ATTENDING THE MEETING IN COUNCIL CHAMBERS SHOULD MAINTAIN PHYSICAL SEPARATION OF AT LEAST SIX FEET (6') BETWEEN PERSONS WHO ARE NOT IMMEDIATE FAMILY MEMBERS OR MEMBERS OF THE SAME HOUSEHOLD. PUBLIC SEATING IN COUNCIL CHAMBERS WILL BE ARRANGED TO MAINTAIN THE PHYSICAL SEPARATION AND MAY NOT BE MOVED IN VIOLATION OF THIS REQUIREMENT. ANY PERSON WHO FAILS TO MAINTAIN THE REQUIRED PHYSICAL SEPARATION WILL BE ASKED TO COMPLY. ANY PERSON REFUSING TO COMPLY WILL BE REMOVED FROM COUNCIL CHAMBERS.

**City of Aberdeen
Request for Council Action**

Agenda Item No.	3A	Special Meeting Date:	June 11, 2020
Agenda Section	Old Business	Originating Dept:	City Council
Ord. / Res.	Ordinance No. 20-06-02	Prepared by:	City Attorney
No. of Attachments	4	Presented by:	City Attorney

Item:

Discussion and possible second reading and final adoption of Ordinance No. 20-06-02, also known as COVID-19 Emergency Ordinance No. 4.

City Manager’s Proposed Action:

Motion by _____ second by _____ to approve second reading and final adoption of Ordinance No. 20-06-02 (COVID-19 Emergency Ordinance No. 4), pursuant to Aberdeen City Charter, Sec. 2.14.

Overview:

COVID-19 Emergency Ordinance No. 3 shall be automatically repealed on June 14, 2020. Emergency ordinances are permitted under those conditions set forth by Aberdeen City Charter.

Sec. 2.14. - Emergency Ordinances.

To meet a public emergency affecting life, health, property or the public peace, the city council may adopt one or more emergency ordinances.... An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least sixty percent of the members present shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one made pursuant to §5.07(b) shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

Primary Issues/Alternatives to Consider:

Budgetary/Fiscal Issues:

- Attachments:**
1. Ordinance No. 20-06-02
 2. CDC Guidance for Mass Gatherings as of 3-15-20

First Reading: June 5, 2020
Second Reading: TENTATIVE June 11, 2020
Final Adoption: TENTATIVE June 11, 2020
Published: TENTATIVE June 13, 2020
Effective Date: TENTATIVE June 13, 2020

ORDINANCE NO. 20-06-02
COVID-19 EMERGENCY ORDINANCE NO. 4

**AN 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 Aberdeen has the authority pursuant to SDCL §§ 9-29-1 and 9-32-1 to adopt ordinances for the purpose of promoting the health, safety, 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, the City Council, pursuant to Aberdeen City Charter, Sec. 2.14, may adopt an emergency ordinance affecting life, health, property, or the public peace by an affirmative vote of at least sixty percent of the members present, which ordinance shall automatically stand repealed as of the 61st day following the date on which it was adopted; and

WHEREAS, the City Council adopted Ordinance No. 20-04-05 (COVID-19 Emergency Ordinance No. 3) on April 13, 2020, upon its finding that a public health emergency existed in the City due to COVID-19, which recitals are expressly adopted by the Council and incorporated herein by reference; and

WHEREAS, Governor Noem on May 27, 2020, issued Executive Order 2020-26 extending the State of Emergency and declaring that a state of emergency continues to exist within the State of South Dakota until December 30, 2020, unless sooner terminated or extended;

WHEREAS, the City Council, exercising its authority pursuant to Aberdeen City Charter, Sec. 2.14, finds that the restrictions established by this ordinance are consistent with and authorized by the Governor’s “Back to Normal” Plan and are necessary for the prevention and spread of the contagious virus causing the deadly COVID-19 disease within the City of Aberdeen.

SECTION A.

BE IT ORDAINED BY THE CITY OF ABERDEEN as follows:

1. Effective 12:01 a.m. on the day following the passage of this ordinance, any enclosed retail business operating as a bar, restaurant, brewery, café, casino, coffee shop, recreational or athletic facility, health club, entertainment venue, or other similar place for public gatherings shall (a) permit only that number of people within the enclosed facility where there is sufficient space to have physical separation of at least six feet between all persons who are not immediate family members, members of the same household, or members of the same social outing, and (b) discontinue business practices incompatible with CDC hygiene practices designed to reduce the likelihood of spreading the COVID-19 disease. These businesses are encouraged to adopt and promote practices that do not involve public gatherings in an enclosed space, including but not limited to takeout, delivery, drive-through, curbside service, and off-site services. Any enclosed retail business that promotes public gatherings shall implement procedures to ensure social distancing and operate in compliance with federal and state health guidance in order to prevent the spread of the COVID-19 disease.

2. Effective 12:01 a.m. on the day following the passage of this ordinance, any public gathering of people is prohibited (a) where there is not sufficient space to have physical separation of at least six feet between persons who are not immediate family members or members of the same household, or (b) where CDC hygiene practices to reduce the likelihood of spreading the COVID-19 disease are not maintained.

3. The prohibitions 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 Para. 1.
- (b) Room service in hotels.
- (c) Health care facilities, residential care facilities, congregate care facilities, licensed day cares, and correctional facilities and schools.
- (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.

SECTION B.

BE IT FURTHER ORDAINED as follows:

1. If the Governor declares the public health emergency no longer exists, this ordinance shall be automatically repealed.
2. This ordinance shall be repealed, in part or in whole, on the day following each regular or special meeting of the City Council, *unless* the City Council at such regular or special meeting by resolution approved by a majority of the members present affirms (1) the continued existence of the public health emergency, and (2) the necessity of all or certain parts of the social distancing measures set forth in Section A, Paragraphs 1 - 2 above, and extends all or any part of the ordinance for the day following the next regular or special meeting of the City Council. This provision authorizes the City Council by resolution to affirm that certain of the social distancing measures set forth in Section A, Paragraphs 1 - 2 above may no longer be necessary while other such measures may continue to be necessary. Any part of the ordinance that has not been repealed shall be subject to recurrent affirmances by resolution and extended thereafter, but in no event may any part of this ordinance be extended beyond 60 days from the effective date and all remaining parts of this ordinance shall be automatically repealed on the 61st day without further action of the City Council. Nothing herein shall be construed to prevent the City Council from adopting another ordinance necessary for the immediate preservation of the public peace, health, or safety in response to the COVID-19 pandemic.
3. A violation of this ordinance shall be a Class 2 misdemeanor, and may result in suspension or revocation of any license issued by the city. Each day a violation of this ordinance occurs is considered a separate offense.
4. Upon the passage and publication of this ordinance, Ordinance No. 20-04-05, known as COVID-19 Emergency Ordinance No. 3, is hereby repealed.
5. Pursuant to SDCL § 9-19-13, this ordinance is necessary for the immediate preservation of the public peace, health, or safety and shall become effective immediately upon its passage and publication.

**City of Aberdeen
Request for Council Action**

Agenda Item No.	4A	Special Meeting Date:	June 11, 2020
Agenda Section	New Business	Originating Dept:	City Council
Ord. / Res.	Resolution No. 20-06-06R	Prepared by:	City Attorney
No. of Attachments	1	Presented by:	City Attorney

Item:

Discussion and possible first reading and passage of Resolution No. 20-06-06R extending Ordinance No. 20-04-05, also known as COVID-19 Emergency Ordinance No. 3.

City Manager's Proposed Action:

Motion by _____ second by _____ to approve first reading and passage of Resolution No. 20-06-06R extending Ordinance No. 20-04-05 (COVID-19 Emergency Ordinance No. 3).

Overview:

Emergency Ordinance No. 3 will be repealed if the Council does not affirm (1) the continued existence of the public health emergency, and (2) the necessity of all or parts of the social distancing measures described in Section A. Paragraphs 1 - 7. If extended, the Council should affirm those paragraphs or specific businesses or facilities that continue to be subject to the ordered prohibitions and closures, subject to such other modifications as it deems appropriate. The effect of taking no action on this Resolution will result in the automatic repeal of Emergency Ordinance No. 3 on June 12, 2020.

The resolution attached hereto is copied from Resolution No. 20-04-07R, which was approved at the special meeting on April 29, 2020, and subsequent meetings.

Primary Issues/Alternatives to Consider:

Budgetary/Fiscal Issues:

Attachments: 1. Resolution No. 20-06-06R

RESOLUTION NO. 20-06-06R

**RESOLUTION EXTENDING ORDINANCE NO. 20-04-05
COVID-19 EMERGENCY ORDINANCE NO. 3
AND EASING CERTAIN RESTRICTIONS OF THE ORDINANCE**

WHEREAS, the Aberdeen City Council adopted COVID-19 Emergency Ordinance No. 3 (Ordinance No. 20-04-05) (“emergency ordinance”) implementing certain measures which it deemed necessary to slow the community spread of the virus responsible for the COVID-19 disease; and

WHEREAS, aided by the voluntary compliance of most residents and businesses with the social distancing and hygiene practices recommended by the CDC, such measures have helped in slowing the community spread of the virus and providing a basis to begin reopening businesses and other public gathering places within the community; and

WHEREAS, the emergency ordinance shall be repealed, in part or in whole, on the day following each regular or special meeting of the City Council, *unless* the City Council at such regular or special meeting by resolution affirms (1) the continued existence of the public health emergency, and (2) the necessity of all or certain parts of the social distancing measures set forth in Section A, Paragraphs 1 - 7, and extends all or any part of the ordinance for the day following the next regular or special meeting of the City Council.

WHEREAS, based on the number of cases in Brown County, the almost complete lack of hospitalization in the City, and the available modeling, the City Council believes some of the social distancing restrictions can be modified to allow businesses to resume on-site services of customers without causing the number of cases in the city to rise to the level that it will overwhelm the hospitals’ capacity if proper procedures are put in place.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council affirms that some, but not all, of the social distancing measures set forth in Section A, Paragraphs 1, 2, 3, 4, 5, 6, and 7 of the emergency ordinance are necessary for the prevention and spread within the City of Aberdeen of the contagious virus.

2. The City Council hereby extends paragraphs 1, 2, 3, 4, 5, and 7 of Section A of the emergency ordinance for the day following the next regular or special meeting of the City Council, except that part of each paragraph that prohibits or closes on-site

consumption, sales, or services *if* such business, facility, club, shop, organization, or other entity complies with the following restrictions:

- (a) Maintains a minimum six-foot space between tables, chairs, and barstools if occupants are not members of the same household or dining party of not more than 10 persons;
- (b) Limits capacity in indoor recreational facilities and fitness businesses to a number of persons that can safely and reliably ensure social distancing;
- (c) Requires handwashing at regular intervals of at least once per hour for all restaurant, bar, and food service employees;
- (d) Cleans and disinfects video lottery machines between each customer and at the start of business;
- (e) Reduces seating to allow for social distancing by removing chairs or marking certain seats as “not available due to social distancing”;
- (f) Posts for customers the regular cleaning and disinfecting schedule;
- (g) Maintains a six-foot space between customers waiting for service or entry into the facility; and
- (h) Employees of beauty and hair salons, nail salons, tattoo parlors, spas, massage studios, and barber shops wear masks which cover their nose and mouth during customer contact times. Customer seating must be at least six (6) feet apart.
- (i) Implements daily health screening protocol per South Dakota Department of Health guidelines for all employees.
- (j) Employees shall wear a mask that covers the face and nose when social distancing guidelines cannot be met with, or a barrier to the public is not provided.
- (k) Equipment and mats in health, fitness, athletic, and weight training facilities must be cleaned and disinfected between each use.

3. In addition to the specific requirements listed above, businesses shall operate in a manner consistent with CDC guidelines and any applicable state regulation or executive orders. Employers should plan to respond in a flexible way to varying levels of disease transmission in the community and be prepared to refine their business response plans as needed.

4. The City encourages all individuals within the City to continue to follow the CDC guidelines and recommended hygiene practices.

5. The City encourages grocery and retail stores to limit customers to a number of persons that can safely and reliably ensure social distancing, and, where practicable, to clearly mark one-way shopping aisles and install a plexiglass or similar divider between the customer and the cashier.

6. The City encourages enhanced cleaning and disinfecting requirements for motel and hotel rooms.

7. The City Council hereby extends paragraph 6 of Section A and all of Section B of the emergency ordinance for the day following the next regular or special meeting of the City Council.

The foregoing Resolution was approved after first reading and passed at a special meeting of the Aberdeen City Council on the 11th day of June, 2020.

Number of AYES: _____

Number of NAYS: _____

Members abstaining: _____

Travis Schaunaman, Mayor

ATTEST:

Finance Officer