

**ORDINANCE NO. 836**

**AN ORDINANCE OF THE CITY OF CUSTER, SOUTH DAKOTA DECLARING  
A PUBLIC HEALTH EMERGENCY AND LIMITING PUBLIC GATHERINGS  
WITHIN THE CITY LIMITS**

**WHEREAS**, the City of Custer 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 to do what may be necessary or expedient for the promotion of health or the suppression of disease; and

**WHEREAS**, an outbreak of the COVID-19 disease, which is caused by the novel coronavirus SARS-CoV-2 (the “virus”), has been confirmed in more than 100 countries, including the United States; and

**WHEREAS**, COVID-19 is a severe respiratory disease caused by the virus 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, virus infection 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 the virus causing the COVID-19 disease 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 the virus causing the COVID-19 disease; and

**WHEREAS**, cases of infection from the virus causing the COVID-19 disease have been confirmed in the State of South Dakota, and cases of community transmission are reasonably suspected to exist; and

**WHEREAS**, the CDC and health experts have recommended social distancing to slow the spread of the virus causing the COVID-19 disease; and

**WHEREAS**, social distancing 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 at least two weeks; and

**WHEREAS**, on March 16<sup>th</sup>, the White House issued guidance recommending that gatherings of more than ten (10) people be avoided and that people avoid eating or drinking at bars, restaurants, and food courts; 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 the virus 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 the COVID-19 disease; and

**WHEREAS**, due to the fact that this is an emergency ordinance for public health purposes, and not intended as a permanent ordinance, the Common Council of the City of Custer shall place on each regular and special council meeting agenda as a discussion item for purposes of reviewing, amending, extending, or terminating this ordinance.

**NOW THEREFORE, BE IT ORDAINED**, by the Common Council of the City of Custer, South Dakota:

1. Effective at 12:00 a.m. on April 9, 2020, all restaurants, food courts, food service locations, coffee houses, bars, breweries, distilleries, wineries, clubs, cafes and other similar places of public accommodation offering food and beverages for on-site consumption, including any alcohol licensees with on-sale privileges, are closed to on-site/on-sale patrons. These

businesses may continue to operate in order to provide take-out, delivery, curbside service, drive-thru service. Any business continuing to operate in order to provide off- site service should implement procedures to ensure social distancing and operate in compliance with federal and state health guidance in order to prevent the spread of COVID-19.

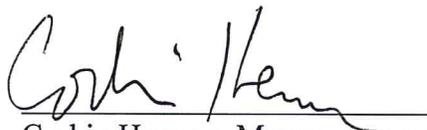
2. Effective at 12:00 a.m. on April 9, 2020, all churches, recreational facilities, public pools, health clubs, athletic facilities and theaters, and other indoor and outdoor venues where people congregate, including music or entertainment venues are directed to close and cease normal operations.
3. Effective at 12:00 a.m. on April 9, 2020, all pool halls, video lottery casino operations, indoor recreational or entertainment facilities are directed to close and cease operations.
4. Effective at 12:00 a.m. on April 9, 2020, all other retail and service businesses in which more than ten (10) people are gathered or permitted to gather in the facility are directed to close and cease operations.
5. The prohibitions and closures in this order do not apply to the following businesses:
  - a. Places of public accommodation that offer food and beverages for off-site consumption, including grocery stores, food markets, retail and service businesses in which less than ten (10) people are gathered or permitted to gather in the facility, pharmacies, drug stores, and food pantries, other than any portion of such business which would be subject to the requirements of paragraph #1.
  - b. Room service in hotels.
  - c. Health care facilities, residential care facilities, and congregate care facilities.
  - d. Crisis shelters, local food programs, or other similar institutions
  - e. Any emergency facilities necessary for the response to the current public health emergency or any other community emergency or disaster.
6. This ordinance shall remain in effect until July 1, 2020, or such time as it earlier is amended, suspended, reinstated or repealed by Resolution of the Custer City Council.
7. Any violation of this ordinance is subject to the general penalty provisions applicable to all other violations of the Custer City Ordinances.
8. This Ordinance shall apply to all persons, facilities and locations within the City of Custer.

9. Each day a violation of this ordinance is allowed to occur is considered a separate offense committed by the person(s) in charge of the facility in violation.

BE IT FURTHER ORDAINED, that, pursuant to SDCL 9-19-13, this ordinance is necessary due to a public health emergency, the immediate preservation of the public peace, health, safety, and welfare of the City and shall become effective immediately upon publication; and

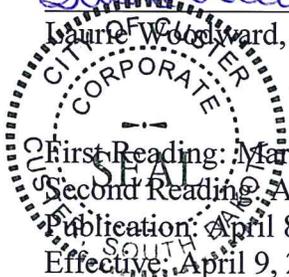
BE IT FURTHER ORDAINED, that this ordinance, and enforcement thereof shall automatically terminate on July 1, 2020 unless earlier terminated by resolution of the Common Council of the City of Custer.

City of Custer

  
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Corbin Herman, Mayor

Attest:

  
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Laurie Woodward, Finance Officer



First Reading: March 26, 2020  
Second Reading: April 2, 2020  
Publication: April 8, 2020  
Effective: April 9, 2020 12:00 am MST

Vote:	Fischer: Yes	Whittaker: Yes
	Nielsen: Yes	Blom: Yes
	Ryan: Yes	Moore: Yes