

**AGENDA
Mobridge City Council
Special Meeting**

Wednesday, April 29, 2020 5:30 P.M.

Mobridge City Hall

- 1) Call to Order

- 2) 1st Reading Ordinance No. 984, an emergency ordinance to continue addressing a public health crisis by implementing and modifying certain measure which have been deemed necessary to slow the community spread of Coronaviris (Covid-19)

- 3) Adjournment

please join us via Zoom. Either download the app on your smart device or go to the web address below. Thank you!

Topic: Special Council Meeting

Time: Apr 29, 2020 05:30 PM Central Time

Join Zoom Meeting

<https://us02web.zoom.us/j/84376330833>

Meeting ID: 843 7633 0833

ORDINANCE NO. 984

AN EMERGENCY ORDINANCE TO CONTINUE ADDRESSING A PUBLIC HEALTH CRISIS BY IMPLEMENTING AND MODIFYING CERTAIN MEASURES WHICH HAVE BEEN DEEMED NECESSARY TO SLOW THE COMMUNITY SPREAD OF CORONAVIRUS (COVID-19).

WHEREAS, the City of Mobridge 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 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 that bars, restaurants, food courts, gyms, and other indoor and outdoor venues where people congregate should be closed; and

WHEREAS, the Mobridge City Council did adopt Emergency Ordinance 982 effective April 2, 2020, which did put in place a number of guidelines and limitations on certain activities in order to combat the spread of COVID-19; and

WHEREAS, cases of COVID-19 have been confirmed in South Dakota and the City of Mobridge, with state officials predicting the peak infection period for the state to occur between the middle of May and middle of June 2020; and

WHEREAS, the CDC and health experts have recommended social distancing to slow the spread of COVID-19 and the CDC and White House have issued guidance to state and local governments regarding restrictions and criteria for lifting such restrictions in phases in order to control the continued spread or re-occurrence of COVID-19; and

WHEREAS, Governor Noem issued Executive Order 2020-12 on April 6, 2020, which orders and directs all local and municipal governments within the State of South Dakota to:

1. Implement the recommended CDC hygiene practices and public employee arrangements designed to reduce the likelihood of spreading the disease, and take action based on facts, data, and science.
2. Restrict public gatherings of ten or more people, unless it is necessary.
3. Review the business practices of each “enclosed retail business that promotes public gatherings” in their community for compliance with [Executive Order 2020-12] and protect the ability of those businesses to innovate.
4. Encourage entrepreneurial innovation in the private sector to provide employment opportunities to protect the continued operation of the free market consistent with the recommendations of the CDC hygiene practices and understand that COVID-19 will impact their communities for potentially the next four months or more.

5. Protect critical infrastructure sectors, as defined by the Department of Homeland Security, such as healthcare services, pharmaceutical industry, and food supply entities, as these sectors have a special responsibility to maintain their normal work schedule; and

WHEREAS, Governor Noem, via Executive Order 2020-15 issued on April 9, 2020, did extend the state of emergency previously declared under Executive Order 2020-04 to continue through May 31, 2020; and

WHEREAS, the Mayor and City leadership have been in consultation with health professionals in the community and said healthcare professionals are recommending that the actions recommended by federal and state authorities be continued in Mobridge at this time; and

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Mobridge that:

1. City of Mobridge Emergency Ordinance 982 is hereby suspended, provided however, in the event any new confirmed cases of COVID-19 are discovered in the City of Mobridge, the Mayor may order the reinstatement of the provisions of Ordinance 982 and pursuant to paragraph 7 below, for the purpose of bringing the matter of the reinstatement of Ordinance 982 and this Ordinance 984's repeal, suspension or continuance before the City Council. Such reinstatement shall remain in effect until the Council votes on the issue of how to handle the reinstatement of Ordinance 982 and the suspension this Ordinance 984.
2. Pursuant to Governor Noem's Executive Order 2020-12, every person in the City of Mobridge shall follow the recommended CDC hygiene practices as they appear now or may be amended and which currently include, but are not limited to:
 - A. washing hands often with soap and water for at least 20 seconds;
 - B. using sanitizer that contains at least 60% alcohol when soap and water is unavailable;
 - C. avoiding touching your eyes, nose, and mouth;
 - D. avoiding close contact with those who are sick;
 - E. staying at home as much as possible;
 - F. keeping a minimum of 6 feet separation between yourself and others;
 - G. covering your mouth and nose with a cloth face cover when around others, even when not feeling sick, and particularly when in public (except in cases where the CDC or a medical professional has advised differently); and
 - H. cleaning frequently touched surfaces daily.

Particular importance is placed upon staying home as much as possible, maintaining 6 feet of separation, wearing a cloth face cover in public, and washing/sanitizing hands.

3. Pursuant to Governor Noem's Executive Order 2020-12, no person in the City of Mobridge shall participate in an unnecessary gathering of 10 or more people unless all participants maintain at least 6 feet of separation at all times. For gatherings of 10 or

more that are deemed necessary and which may include participants who must be within 6 feet of each other, the participants shall utilize a cloth face cover over the nose and mouth. Gatherings that are deemed necessary include those that facilitate operations of essential critical infrastructure workers as defined by Cybersecurity & Infrastructure Security Agency of the U.S. Department of Homeland Security.

4. Provisions Relating Specifically to Businesses:

- A. Businesses that remain open must ensure that all visitors, patrons, and other non-employee individuals on the premises meet the provisions set forth in Sections 2A, 2B, 2D, 2F, 2G, and 3 above when feasible while such visitors, patrons, and other non-employee individuals are on the premises.
- B. Businesses that remain open must ensure that all employees on the premises meet the provisions set forth in Sections 2A, 2B, 2D, 2F, 2G, 2H, and 3 above when feasible while such employees are on the premises.
- C. Businesses that remain open must provide a method of sanitizing hands and/or frequently touched surfaces at each entrance and exit of a facility and at a location where an individual can sanitize their hands or the surface before/after using any items intended for shared use. By way of example, shelved inventory would not be considered an item intended for shared use, but pens at a point of sale would be considered an item intended for shared use.
- D. Businesses must implement a screening program for employees consisting of a minimum of questioning on COVID-19 symptoms for each employee entering a facility and a temperature check. An employee who is displaying symptoms or who has a temperature above 100.4 degrees Fahrenheit shall not be permitted to enter the facility. Businesses may, but are not required to, expand such screening to visitors.
- E. For enforcement purposes, the City may hold an owner, manager, supervisor, or employee responsible for a violation of this section if such person knew or should have known of a violation and failed to address the situation in a manner which would prevent further violations taking into consideration the individual's level of authority.
- F. While this ordinance does not make distinctions on the application of this ordinance to different types of businesses, it should be noted that prior White House guidance was premised upon there being closures for bars, restaurants, food courts, gyms, and other indoor and outdoor venues where people congregate. Even in phase one of the White House proposed reopening guidance, the recommendation is for schools and youth activities to remain closed, visits to senior living and hospitals to be prohibited, large venues and gyms to strictly follow physical distancing and sanitation protocols, and for bars to remain closed. Understand that any operation conducting business outside of these federal recommendations is anticipated to generate increased public complaints which may then result in increased investigation by City staff into whether a violation has occurred. All violation investigations and prosecutions are handled on a case by case basis.

5. Limitations and Exceptions:
 - A. For purposes of this ordinance, any requirement to maintain 6 feet separation shall not apply to immediate family members or members of the same household.
 - B. The 6 feet separation requirement may be waived for an employer, the individual employee, and other persons an employee may be in close proximity with if all individuals in close proximity wear an appropriate face covering and are within close proximity only for the time necessary to complete a specific task that requires more than one person to complete appropriately. This exception does not authorize unnecessary, non-exempt, or non-essential activities which may involve individuals coming within 6 feet of one another.
 - C. This ordinance does not apply to health care facilities, residential care facilities, congregate care facilities, childcare facilities, correctional facilities, crisis shelters, homeless shelters, emergency facilities necessary for the response to the current public health emergency or any other community emergency or disaster, or to the meetings or proceedings of any city, county, state, school, or court. This ordinance does not apply to essential critical infrastructure workers or their operations, as defined by Cybersecurity & Infrastructure Security Agency of the U.S. Department of Homeland Security, to the extent said workers are engaged in their work duties. However, the provisions put in place by this ordinance are still recommended, to the extent possible, for any exempt person, location, operation, or meeting.
6. Penalties and Nuisance Treatment.
 - A. Any violation of this ordinance is subject to the general penalty provision established in the Mobridge City Code. Each day a violation of this ordinance is allowed to occur is considered a separate offense.
 - B. Violations of this ordinance are hereby deemed to constitute a nuisance under Mobridge City Code. Emergency abatement is specifically authorized as an immediate remedy for violations up to and including the closure of the facility and removal of all persons from the location. The violating party shall be responsible for the costs incurred to abate such nuisance. Before reopening, the violating party, or other appropriate party, shall submit a written statement to the City stating which steps will be taken to ensure future compliance with the provisions of this ordinance. City staff will inform the party submitting the statement of their ability to resume operations within 1 business day (excluding weekends and holidays). Any business or individual aggrieved by any immediate abatement or requirements being placed on the person's activities to be brought in compliance with ordinance may appeal the action to the next City Council meeting that is at least 48 hours after the filing of the notice of the written request for hearing, exclusive of weekends and holidays. Such request for hearing must set forth the reasons why the business or individual believes their actions are within the restrictions contained in the ordinance.

C. The City Attorney is authorized to pursue relief, in an appropriate form, through the court system which may serve to prevent and/or prohibit repeat violations of this ordinance.

7. This ordinance shall remain in effect until amended or repealed by the City Council by resolution or Ordinance, except that the Mayor may order the temporary suspension of the provisions of this ordinance one time for the purpose of bringing the matter of this ordinance's repeal or continuance before the City Council. Such suspension shall remain in effect either until the Council votes in favor of having this ordinance remain in effect or until the Council complies with the procedure to repeal this ordinance.

8. This Ordinance shall apply to all persons, facilities and locations within the City of Mobridge and within 1 mile of the corporate limits of the City of Mobridge.

BE IT FURTHER ORDAINED, that, pursuant to SDCL 9-19-13, this ordinance is necessary due to a health emergency, the immediate preservation of the public peace, health, safety, and welfare of the City and shall become effective at 12:00 a.m. on May 7, 2020.

APPROVED: _____

Mayor

Passed First Reading: _____

Passed Second Reading: _____

Adopted: _____

Published: _____

Effective: _____

ATTEST: _____

Finance Officer

(SEAL)