ORDINANCE NO. ______

COVID-19 TEMPORARY EMERGENCY ORDINANCE NO. #1

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 Yankton 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, on March 16, 2020, the City of Yankton passed resolution 20-21, which declared a state of emergency to exist in the City of Yankton 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 16th, 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.

WHEREAS, the Yankton City Board of Health, exercising its authority within Ordinance Sec. 11-32 of the Yankton Code of Municipal Ordinances, has found that the rules and regulations contained within this ordinance are necessary for the prevention and spread of the contagious virus causing the deadly COVID-19 disease within the city and recommended the passage thereof by the Yankton Board of City Commissioners.

NOW THEREFORE, BE IT ORDAINED, by the Yankton Board of City Commissioners that:

(1) Effective at 12:00 a.m. on Thursday, March 26, 2020, all restaurants, coffee houses, bars, breweries, dance clubs, gentlemen’s 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, and 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 the virus causing the COVID-19 disease. The list of the businesses types closed by this provision may be increased by resolution of the Yankton Board of City Commissioners. This closure will remain in effect through Tuesday, April 14, 2020.

(2) Effective at 12:00 a.m. on Thursday, March 26, 2020, all recreational facilities, pools, health and fitness facilities and clubs, social clubs, fraternal organizations, athletic and weight training facilities, movie and live production theaters, event centers, meeting halls, and music and entertainment venues are directed to close and cease operations. The list of the businesses types closed by this provision may be increased by resolution of the Yankton Board of City Commissioners. This closure will remain in effect through Tuesday, April 14, 2020.

(3) Effective at 12:00 a.m. on Thursday, March 26, 2020, all tobacco shops and lounges, vaping shops and lounges, hookah lounges, and other similar business which allow for on-site consumption of any product by smoking or inhaled vapor are directed to cease allowing on-site consumption, but may continue to offer products for sale to consume off-site under the same conditions as bars and restaurants outlined in paragraph #1. The list of the businesses types closed by this provision may be increased by resolution of the Yankton Board of City Commissioners. This closure will remain in effect through Tuesday, April 14, 2020.

(4) Effective at 12:00 a.m. on Thursday, March 26, 2020, all pool halls, video game arcades, video lottery casino operations, bowling alleys, ice skating rinks, and other similar recreational or entertainment facilities are directed to close and cease operations. The list of the businesses types closed by this provision may be increased
by resolution of the Yankton Board of City Commissioners. This closure will remain in effect through Tuesday, April 14, 2020.

(5) The prohibitions and closures 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 paragraph (1).

(b) Room service in hotels.

(c) Health care facilities, residential care facilities, congregate care facilities, and correctional facilities.

(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.

(f) Any other business type or service established by resolution of the Yankton Board of City Commissioners.

(6) If the Yankton Board of City Commissioners receives a recommendation from the Yankton City Health Board, it may pass a resolution limiting the size of any communal gathering as defined herein and prohibit any communal gathering in excess thereof for a period of time set forth in such resolution not to exceed the period of time this ordinance remains in effect, which prohibition shall be governed by the following terms:

(a) For purposes of this ordinance, a "communal gathering" is any indoor or outdoor gathering of people, subject to the exceptions and clarifications below, that brings together or is likely to bring two or more persons at the same time in a single room or other single confined or enclosed space, including, but not limited to an office space or similar confined place of employment, a single family residence, or a residential apartment unit.

(b) For purposes of this ordinance, a "communal gathering" does not include larger gatherings in the following locations, so long as people take care not be within arm’s length of one another for extended periods:

(i) public parks, sidewalks, and streets;

(ii) parking lots and common areas of any hotel, office building or residential apartment buildings;

(iii) grocery stores, shopping malls, manufacturing facilities, or other retail or business establishments where larger numbers of people may be present, but where it is unusual for people to be within arm’s length of one another for extended periods;

(iv) hospitals, mental health or substance abuse treatment facilities, and medical clinics and facilities; and

(v) Any other location established by resolution of the Yankton Board of City Commissioners.
(c) A resolution limiting the size of a communal gathering passed by the Yankton Board of City Commissioners in accordance with this ordinance shall be deemed effective immediately upon its publication.

(d) Each person participating in any communal gathering that violates a size restriction established by resolution of the Yankton Board of City Commissioners in accordance with this ordinance shall be deemed to be in violation of this ordinance.

(7) If the Yankton Board of City Commissioners receives a recommendation from the Yankton City Health Board, it may pass a resolution requiring that all non-essential businesses within the city must close in-office or on-site personnel functions and cease all in-person customer contact for a period of time set forth in such resolution not to exceed the period of time this ordinance remains in effect, which prohibition shall be governed by the following terms:

(a) For purposes of this Ordinance, an "Essential Business" is not governed or limited by this a restriction. An “Essential Business” means:

(i) Essential Health Care Operations, Including, research and laboratory services, hospitals, walk-in-care health facilities, veterinary and livestock services, elder care, medical equipment supply providers and distribution, home health care workers or aides for the elderly, physicians, emergency dental, nursing homes, or residential health care facilities or congregate care facilities

(ii) Essential Infrastructure, Including all utility providers, fuel supply and transmission, public water and wastewater, solid waste transfer station, telecommunications facilities and data centers, airports, transportation infrastructure such as bus, rail, or for-hire vehicles, garages, hotels, and places of accommodation

(iii) Manufacturing;

(iv) Essential Retail, Including grocery stores, pharmacies, convenience stores, gas stations, take-out/delivery restaurant service, hardware and building material stores;

(v) Essential Services, Including solid waste and recycling collection, processing and disposal, mail and shipping services, laundromats, building cleaning and maintenance, child care services, auto repair, warehouse/distribution and fulfillment, funeral homes, crematoriums and cemeteries, storage for essential businesses, animal shelters, and Information Technology (IT) services providing support to Essential Business;

(vi) News Media;

(vii) Financial Institutions, Including banks, insurance agencies, brokerage firms, payroll and bookkeeping services, tax preparation and accounting services, and services related to financial markets

(viii) Providers of Basic Necessities to Economically Disadvantaged Populations, Including homeless shelters, crisis shelters, congregate care facilities, food banks, human services providers whose function includes the direct care of patients in state-licensed or funded voluntary programs; the care, protection, custody and oversight of individuals both in the community and in state-licensed residential facilities; and other critical human services agencies providing direct care or support;
Construction, including skilled trades such as electricians, plumbers, other related construction firms and professionals for essential infrastructure or for emergency repair and safety purposes;

Federal, State, or county agencies under direct control of any branch of the United States Federal Government, or of the State of South Dakota or of Yankton County;

Essential Services Necessary to Maintain the Safety, Sanitation and Essential Operations of Residences or Other Essential Businesses, including law enforcement, fire prevention and response, building code enforcement, security, emergency management and response, building cleaners or janitors, general maintenance whether employed by the entity directly or as a vendor, automotive repair, or disinfection;

An “Essential Business” shall also specifically include or exclude any business or organization type as clarified by resolution of the Yankton Board of City Commissioners, even if the business or organization type is identified herein.

A resolution requiring that all non-essential businesses close in-office or on-site personnel functions and cease all in-person customer contact passed by the Yankton Board of City Commissioners in accordance with this ordinance shall be deemed effective immediately upon its publication.

The owner and supervising manager of any non-essential businesses that refuses to close in-office or on-site personnel functions or to cease all in-person customer contact in violation of the Yankton Board of City Commissioners in accordance with this ordinance shall be deemed to be in violation of this ordinance.

This ordinance shall remain in effect until Tuesday, June 8, 2020, at which time it shall be automatically repealed without further action of the Yankton Board of City Commissioners unless specifically readopted for an additional period of time by the Yankton Board of City Commissioners. Any dates identified in the ordinance for closures to automatically end may be extended within the period covered by this ordinance by a resolution of the Yankton Board of City Commissioners.

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. 1-8 of the Yankton Code of Municipal Ordinances. 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 and shall become effective immediately upon passage.

Dated this ___ day of March, 2020.

CITY OF YANKTON

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Nathan Johnson, Mayor

ATTEST:
Al Viereck, Finance Officer

(SEAL)