**ORDINANCE NO. 638**

 **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 Chamberlain (the “City”) 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 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 and surrounding communities’ 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**, on March 23, 2020, Governor Kristi Noem, issued Executive Order 2020-08 outlining guidelines for all South Dakotans, for-profit and not-for-profit employers, enclosed retail businesses that promote public gatherings, and healthcare organizations as it relates to COVID-19 in the state of South Dakota (the “Executive Order”); and

 **WHEREAS**, the City Commission of the City of Chamberlain, in support of the directives of the Executive Order and CDC guidance as it relates to COVID-19 in the state of South Dakota, 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.

 **NOW THEREFORE, BE IT ORDAINED**, by the Chamberlain City Commission that:

 (1) Effective at 12:01 a.m. on Thursday, April 9, 2020, all restaurants, food courts, food service locations, coffee houses, cafes, and other similar places of public accommodation offering food for on-site consumption, are restricted to a maximum of ten (10) on-site/on-sale patrons. These businesses may also 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 businesses regulated by this provision may be increased by resolution of the Chamberlain City Commission. This order will remain in effect through Monday, April 20, 2020.

 (2) Effective at 12:01 a.m. on Thursday, April 9, 2020, all recreational facilities, pools, health and fitness facilities and clubs, social clubs, athletic and weight training facilities, movie and live production theaters, event centers, meeting halls, and music and entertainment venues are restricted to a maximum of ten (10) people during staffed hours. Businesses 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 business types regulated by this provision may be increased by resolution of the Chamberlain City Commission. This order will remain in effect through Monday, April 20, 2020.

 (3) Effective at 12:01 a.m. on Thursday, April 9, 2020, all bars, breweries, wineries, clubs, on-sale liquor licensees not offering food for on-site consumption (60% revenue from food sales), and on-sale malt beverage and SD wine licensees not offering food for on-site consumption (60% revenue from food sales) are restricted to a maximum of ten (10) on-site/on-sale patrons. Businesses 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 business types closed by this provision may be increased by resolution of the Chamberlain City Commission. This closure will remain in effect through Monday, April 20, 2020.

 (4) Effective at 12:01 a.m. on Thursday, April 9, 2020, all pool halls, video game arcades, video lottery casino operations, bowling alleys, ice skating rinks, and other similar recreational or entertainment facilities are restricted to a maximum of ten (10) patrons. Businesses 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 business regulated by this provision may be increased by resolution of the Chamberlain City Commission. This order will remain in effect through Monday, April 20, 2020.

 (5) The above restrictions 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 and service businesses 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) Hardware and supply stores.

(c) Room service in hotels.

(d) Health care facilities, child care facilities, residential care facilities, congregate care facilities, and correctional facilities.

(e) Crisis shelters, homeless shelters, churches, soup kitchens, or other similar institutions.

(f) Any emergency facility necessary for the response to the current public health emergency or any other community emergency or disaster.

(g) Official meetings of the city, schools, county, state, or federal government.

(h) Any other business type or service established by resolution of the Chamberlain City Commission.

 (6) The restrictions set forth above do not prohibit an owner, employee, contractor, vendor, or supplier from entering, exiting, using, or occupying that place of business in their professional capacity, so long as procedures are implemented to ensure social distancing to the fullest extent possible.

All other employers, both for profit and not for profit, within the City of Chamberlain are encouraged to:

1. 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;
2. Allow employees and staff to telework, if possible;
3. Limit unnecessary work gatherings;
4. Eliminate nonessential travel; and
5. Consider regular health checks including guidance from the CDC for COVID-19 screening, if possible.

All individuals within the City of Chamberlain are encouraged to:

1. Review and practice the recommended CDC hygiene practices designed to stop the spread of the virus causing COVID-19;
2. Known the signs and symptoms of COVID-19, call a health care provider for instructions if experiencing symptoms of COVID-19, and stay at home if sick;
3. 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;
4. Implement social distancing measures and support businesses that are adjusting their business model to reduce the spread of the virus causing COVID-19; and
5. Assist those who work in essential jobs such as emergency personnel, medical professionals, and law enforcement.

.. (7) This ordinance shall remain in effect until Monday July 6, 2020, at which time it shall be automatically repealed without further action of the Chamberlain City Commission unless amended, suspended, or extended by resolution of the Chamberlain City Commission. Any dates may be extended within the period covered by this ordinance by a resolution of the Chamberlain City Commission.

 (8) Each person in violation of this ordinance shall be guilty of a Class 2 misdemeanor and shall be subject to a penalty up to $500. Notwithstanding the previous sentence, any violation of this emergency ordinance by any business licensed under SDCL Title 35 and Title XI, shall, following a hearing as required by SDCL 35-2-11.1, may at the discretion of the Commission result in a recommendation to the South Dakota Secretary of Revenue that such business’s license be suspended or revoked for such violation. In the event that the hearing requirement of SDCL 35-2-11.1 is waived or otherwise suspended pursuant to gubernatorial action pursuant to SDCL 34-48A-5, then such recommendation may be made without a hearing. 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 and publication.

 Dated this 2nd day of April, 2020.

**CITY OF CHAMBERLAIN, SOUTH DAKOTA**

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Chad Mutziger, Mayor

ATTEST:

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Nicole Gaulke, Finance Officer

(SEAL)

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Second Reading & Adoption: April 2, 2020

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