

ORDINANCE OF THE OGLALA SIOUX TRIBAL COUNCIL
OF THE OGLALA SIOUX TRIBE
(An Unincorporated Tribe)

ORDINANCE OF THE TRIBAL COUNCIL OF THE OGLALA SIOUX TRIBE ADOPTING A
SHELTER-IN-PLACE COVID-19 HEALTH ORDER.

WHEREAS, the Oglala Sioux Tribe adopted its Constitution and By-Laws by referendum vote on December 14, 1935, in accordance with Section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. § 5123), and under Article III of the Constitution, the Oglala Sioux Tribal Council is the governing body of the Oglala Sioux Tribe, and

WHEREAS, pursuant to the Constitution and By-laws of the Oglala Sioux Tribe, the Oglala Sioux Tribal Council exercises legislative powers to enact and promulgate resolutions and ordinances, and

WHEREAS, Article IV, Sections 1(f), 1(k), 1(m), and 1(w) empower the Tribal Council to manage the economic affairs of the Tribe, protect and preserve the property of the Tribe, adopt laws governing the conduct of persons on the Pine Ridge Indian Reservation, and adopt laws protecting and promoting the health and general welfare of the Oglala Sioux Tribe and its membership, and

WHEREAS, the Tribal Council adopted Resolution No. 20-70 affirming President Bear Runner's Declaration of a State of Emergency on the Pine Ridge Indian Reservation due to the novel coronavirus named SARS-CoV-2 and the disease it causes, "coronavirus disease 2019" or "COVID-19", and

WHEREAS, the Tribal Council recognizes that Indian tribes and Reservations are among the most vulnerable populations and locations for this COVID-19 pandemic, and

WHEREAS, in light of the extraordinary threat posed by COVID-19, the Oglala Sioux Tribe must take extraordinary measures to prevent the spread of COVID-19, and

WHEREAS, the Tribal Council has determined that it is in the best interests of the health and welfare of the Oglala Sioux Tribe and the Oglala Lakota Oyate to adopt this Shelter-in-Place Health Order; now

THEREFORE BE IT ORDAINED, the Tribal Council of the Oglala Sioux Tribe hereby adopts the Shelter-in-Place COVID-19 Health Order set forth below.

"SHELTER-IN-PLACE COVID-19 HEALTH ORDER

1. Intent.

The intent of this Order is to ensure that the maximum number of people self-isolate in their places of residence to the maximum extent feasible, while enabling essential services to continue, to slow the spread of COVID-19 to the maximum extent possible.

When people need to leave their places of residence, whether to obtain or perform vital services, or to otherwise facilitate authorized activities necessary for continuity of social and commercial life, they should at all times as reasonably possible comply with Social Distancing Requirements as defined in Section 8 below. All provisions of this Order should be interpreted to effectuate this intent. Failure to comply with any of the provisions of this Order constitutes an imminent threat to public health.

2. Shelter-In-Place Order.

All individuals currently living within the Pine Ridge Indian Reservation (the "Reservation") are ordered to shelter at their place of residence.

To the extent individuals are using shared, public, or outdoor spaces, they must at all times as reasonably possible maintain social distancing of at least six feet from any other person when they are outside their residence.

Individuals may leave their residences only for Essential Activities, Essential Governmental Functions, or to operate Essential Businesses, all as defined in Section 8.

Individuals experiencing homelessness are strongly urged to obtain shelter and to utilize Social Distancing Requirements whenever possible.

3. Legal Basis.

- a. This Order is issued in accordance with, and incorporates by reference, the March 10, 2020 Proclamation of a State of Emergency issued by President Julian Bear Runner and the Tribal Council Resolution affirming the Declaration (Resolution No. 20-70).

- b. This Order comes after the release of substantial guidance from the Tribal Council, OST Task Force, the Centers for Disease Control and Prevention, public health officials throughout the United States and around the world, including a variety of prior orders to combat the spread and harms of COVID-19. The Tribal Council will continue to assess the quickly evolving situation and may modify or extend this Order, or issue additional Orders, related to COVID-19.

4. Scientific Basis.

This Order is issued based on scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically, and evidence that the age, condition, and health of a significant portion of the population of the Reservation places it at risk for serious health complications, including death, from COVID-19.

The scientific evidence shows that at this stage of the emergency, it is essential to slow virus transmission as much as possible to protect the most vulnerable and to prevent the health care system from being overwhelmed. One proven way to slow the transmission is to limit interactions among people to the greatest extent practicable. By reducing the spread of the COVID-19 virus, this Order helps preserve critical and limited healthcare capacity within the Reservation.

5. Businesses.

All businesses with a facility located within the Reservation, except Essential Businesses as defined below in Section 8, are required to cease all activities at facilities located within the Reservation except Minimum Basic Operations, as defined in Section 8. For clarity, businesses may also continue operations consisting exclusively of employees or contractors performing activities at their own residences (i.e., working from home).

All Essential Businesses are strongly encouraged to remain open. To the greatest extent feasible, Essential Businesses shall comply with Social Distancing Requirements as defined in Section 8 below, including, but not limited to, when any customers are standing in line.

Essential Businesses shall follow the duly adopted District plans and orders for their respective District.

6. Public and Private Gatherings.

Section 15 notwithstanding, all public and private gatherings of any number of people occurring outside a household or living unit are prohibited, except for the limited purposes as expressly permitted in Section 8. Nothing in this Order prohibits the gathering of members of a household or living unit.

7. Travel.

This Order allows travel into or out of the Reservation to perform Essential Activities, operate Essential Businesses, or maintain Essential Governmental Functions.

Section 15 notwithstanding, all travel, except Essential Travel and Essential Activities as defined below in Section 8, is prohibited.

8. Definitions and Exemptions.

- a. Individuals may leave their residence only to perform any of the following "Essential Activities."
- To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members and pets.
 - To obtain necessary services or supplies (such as food or household supplies) for themselves and their family or household members and pets, or to deliver those services or supplies to others.
 - To engage in outdoor activity, provided the individuals comply with Social Distancing Requirements as defined in this Section, such as walking, hiking, biking, or running.
 - To perform work at an Essential Business or to otherwise carry out activities specifically permitted in this Order, including Minimum Basic Operations.
 - To care for a family member or pet in another household.
 - To attend and participate in funeral services, provided that Social Distancing Requirements are followed to the greatest extent practicable.

However, people at high risk of severe illness from COVID-19 and people who are sick are urged to stay in their residence to the greatest extent possible except as necessary to seek medical care. For purposes of this Order, "people at high risk of severe illness from COVID-19" are people who meet the CDC definition of higher risk.

- b. Individuals may leave their residence to work for or obtain services at any "Healthcare Operations."

This includes hospitals, clinics, dentists, pharmacies, mental health providers, and any related and/or ancillary healthcare services. "Healthcare Operations" also includes veterinary care and all healthcare services provided to animals.

This exemption shall be construed broadly to avoid any impacts to the delivery of healthcare, broadly defined. "Healthcare Operations" does not include fitness and exercise gyms and similar.

- c. Individuals may leave their residence to provide any services or perform any work necessary to the operations and maintenance of "Essential ."

- d. All first responders, emergency management personnel, emergency dispatchers, court personnel, law enforcement personnel, and other employees of Tribal Programs as identified as "Essential or Critical Service Programs" by the Chief of Staff / Comptroller / Tribal Council who need to perform essential services are categorically exempt from this Order.

Further, nothing in this Order shall prohibit any individual from performing or accessing "Essential Governmental Functions," as determined by the governmental entity performing those functions. Each governmental entity shall identify and designate appropriate personnel to continue providing and carrying out any Essential Governmental Functions. Governmental entities includes both the Tribal Government and the District Government. All Essential Governmental Functions shall be performed in compliance with Social Distancing Requirements as defined in this Section, to the extent possible.

e. Covered businesses include any for-profit, non-profit, or educational entities, regardless of the nature of the service, the function they perform, or its corporate or entity structure.

f. "Essential Businesses" means:

- Healthcare Operations and Essential Infrastructure;
- Grocery stores, farmers' markets, farm and produce stands, supermarkets, food banks, convenience stores, and other establishments engaged in the retail sale of groceries, pet food and supply, and any other household consumer products (such as cleaning and personal care products).

This includes stores that sell groceries and also sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences;

- Agriculture, food, and beverage cultivation, processing, and distribution, including but not limited to, farming, ranching, and fishing in order to preserve inventory and production (not for retail business);
- Businesses that are necessary to supply agriculture, food, and beverage cultivation, processing, and distribution;
- Businesses and Tribal programs that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals;
- Businesses that are currently engaged in construction projects that promote and benefit the Pine Ridge Indian Reservation;
- Newspapers, television, radio, and other media services;
- Gas stations and auto-supply, auto-repair, and related facilities;
- Banks and related financial institutions;

- Hardware stores;
- Plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, Essential Activities, and Essential Businesses;
- Businesses providing mailing and shipping services, including post office boxes;
- Educational institutions- including public and private K-12 schools, colleges, and universities-for purposes of facilitating distance learning or performing essential functions, provided that social distancing of six-feet per person is maintained to the greatest extent possible;
- Laundromats and laundry service providers;
- Restaurants and other facilities that prepare and serve food, but only for drive-thru, delivery, or carry out. Schools and other entities that typically provide free food services to students or members of the public may continue to do so under this Order on the condition that the food is provided to students or members of the public on a pick-up and take-away basis only. Schools and other entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or at any other gathering site;
- Businesses that supply other essential businesses with the support or supplies necessary to operate or supply products needed for people to work from home;
- Businesses that ship or deliver groceries, food, goods or services directly to residences;
- Home-based care for seniors, adults, or children;
- Residential facilities and shelters for seniors, adults, and children;
- Legal services; and

- Professional services, such accounting services, when necessary to assist in compliance with legally mandated activities.
- g. "Essential or Critical Service Programs" means those identified by the Chief of Staff / Comptroller / Tribal Council.
- h. "Minimum Basic Operations" include the following, provided that employees comply with Social Distancing Requirements as defined in this Section, to the extent possible, while carrying out such operations:
 - The minimum necessary activities to maintain the value of the business's inventory, ensure security, process payroll and employee benefits, or for related.
 - The minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences as applicable.
- i. "Essential Travel" includes travel for any of the following purposes. Individuals engaged in any Essential Travel must comply with all Social Distancing Requirements as defined in this Section 8.
 - Any travel related to the provision of or access to Essential Activities, Essential Governmental Functions, Essential Businesses, or Minimum Basic Operations.
 - Travel to care for elderly, minors, dependents, persons with disabilities, or other vulnerable persons.
 - Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services.
 - Travel to return to a place of residence from outside the jurisdiction.
 - Travel required by first responders, law enforcement, or court order.
 - Travel required for non-residents to return to their place of residence outside the Reservation.

- j. Residences include hotels, motels, shared rental units, shelters, and similar facilities.
- k. "Social Distancing Requirements" includes maintaining at least six-foot social distancing from other individuals, washing hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, and not shaking hands.

9. Self-Quarantine Advised.

Except for local travel outside the Reservation for restocking of supplies or essential services, all travelers should self-quarantine for 14 days upon returning home and immediately report any symptoms consistent with COVID-19 to their health care provider.

This means that if an individual travels outside of the Reservation (and outside of border towns), they need to self-quarantine for 14 days upon return. Returning travelers should assume that COVID-19 is present at the locations they have visited and traveled through.

10. Compliance; Civil Fine.

The Tribal Council requests that the Chief of Police ensure compliance with and enforce this Order. The violation of any provision of this Order constitutes an imminent threat to public health.

Law enforcement personnel may issue a warning or a citation for violations of this Order. The Revenue Director may issue warnings or citations against Businesses for violations of this Order.

- a. Individual violations may result in a civil fine of \$25.00 per incident, and repeated violations may result in a civil fine of \$50.00 per incident.
 - 1st violation: warning;
 - 2nd violation: \$25.00 civil fine;
 - 3rd and subsequent violations may result in a \$50.00 civil fine.

b. Business violations may be subject to a civil fine up to \$100.00 per day and/or revocation of their Tribal business license.

- 1st violation: warning;
- 2nd violation: \$100.00 civil fine;
- 3rd and subsequent violations may result in a \$100.00 civil fine and/or revocation of a Tribal business license.

c. Citations may be appealed to the Tribal Court.

11. Safety and Welfare Checks.

Victim Services and CPS shall make periodic safety and welfare checks on foster children and known domestic violence offenders, child abuse offenders, other violent offenders, and their families.

12. District Governments.

Each District is authorized to implement any COVID-19 emergency plans they have prepared. Such plans must not be inconsistent with this Ordinance or the Tribal Constitution. This Ordinance contains the minimum standards for the Shelter-in-Place Order and is applicable regardless of whether a District has adopted an emergency plan.

13. Effective Date.

This Order shall become effective at 12:01 a.m. on March 27, 2020 and will continue to be in effect until it is rescinded by Tribal Council action. The Tribal Council reevaluate this Order, at a minimum, every two weeks. If the Tribal Council does not take any action, then it shall expire in 60 days.

14. Copies of Order.

Copies of this Order shall promptly be: (1) made available at the Tribal Administration Building and each District Service Center; (2) posted on the official Tribal website (<https://www.oglalalakotanation.info>); and (3) provided to any member of the public requesting a copy of this Order.

15. Article XII.

Nothing contained herein is intended to violate the OST Constitution, specifically Article XII(a) and should not be construed as such.

Individuals are advised to consult with their spiritual advisors and use their best judgment before leaving their residence to attend spiritual or religious gatherings. Individuals are encouraged to follow CDC guidelines and exercise Social Distancing Requirements to the greatest extent possible.


16. Severability.

If any provision of this Order to the application thereof to any person or circumstance is held to be invalid, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable."

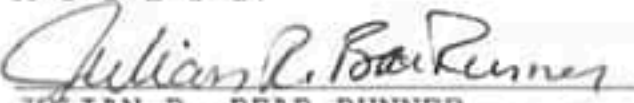
BE IT FURTHER ORDAINED, that this Ordinance shall take effect beginning on March 27, 2020 and shall supersede, repeal, and replace all prior, inconsistent laws of the Oglala Sioux Tribe, including Resolution No. 20-75.

C-E-R-T-I-F-I-C-A-T-I-O-N

I, as the undersigned Secretary of the Oglala Sioux Tribal Council of the Oglala Sioux Tribe, hereby certify that this Ordinance was adopted by a vote of: 15 For; 0 Against; 0 Abstain; and 0 Not Voting; during a SPECIAL SESSION held on the 26TH day of MARCH, 2020.


STACY L. TWO LANCE
Recording Secretary
Oglala Sioux Tribe

A-T-T-E-S-T:


JULIAN R. BEAR RUNNER
President
Oglala Sioux Tribe