

ORDINANCE NO. 2020-04-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING AND RESTATING ORDINANCE NO. 2020-04-025 DECLARING A LOCAL STATE OF DISASTER DUE TO A PUBLIC HEALTH EMERGENCY IN RESPONSE TO THE COVID-19 VIRUS OUTBREAK, PURSUANT TO THE TEXAS DISASTER ACT OF 1975, CHAPTER 418, TEXAS GOVERNMENT CODE AND CHAPTER 122 OF THE TEXAS HEALTH AND SAFETY CODE; PROVIDING A PENALTY; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

- WHEREAS,** beginning in December 2019, a novel coronavirus, now designated COVID-19, has spread through the world and has now been declared a global pandemic by the World Health Organization; and
- WHEREAS,** symptoms of COVID-19 include fever, coughing and shortness of breath, and in some cases, the virus has caused death; and
- WHEREAS,** the COVID-19 virus may be spread between people in close contact with one another through respiratory droplets produced by an infected person; and
- WHEREAS,** prudence dictates that extraordinary measures must continue to be taken to contain COVID-19 and prevent its spread throughout the City of McKinney, including the quarantine of individuals, groups of individuals and occupied structures and, additionally, including compelling individuals, groups of individuals, or occupied structures to undergo additional health measures that prevent or control the spread of the virus; and
- WHEREAS,** on January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency in response to COVID-19; and
- WHEREAS,** on March 13, 2020, the President of the United States declared the COVID-19 outbreak a national health emergency beginning on March 1, 2020; and
- WHEREAS,** on March 13, 2020, the Governor of the State of Texas declared a state of disaster for all counties in Texas in response to the COVID-19 outbreak; and
- WHEREAS,** the Texas Disaster Act of 1975 (the “Disaster Act”) authorizes the presiding officer of a political subdivision to declare a local state of disaster for up to seven (7) days; and
- WHEREAS,** on March 16, 2020, the Mayor of the City of McKinney declared a local state of disaster for the City of McKinney commencing on March 17, 2020 (the “Mayoral Disaster Declaration”), and
- WHEREAS,** on March 17, 2020, the Mayor issued a further revised disaster declaration (the “Second Revised Mayoral Disaster Declaration”) effective immediately prohibiting dine-in service at restaurants and bars beginning March 20, 2020; and
- WHEREAS,** on March 19, 2020, the Governor of the State of Texas issued Executive Order No. GA-08 relating to COVID-19 preparedness and mitigation; and
- WHEREAS,** on March 24, 2020, the McKinney City Council convened and provided Mayor Fuller input for managing the health and welfare of McKinney citizens during this local disaster through a mayoral declaration issued pursuant to Texas law; and

WHEREAS, on March 25, 2020, the Mayor issued a revised disaster declaration (the “Third Revised Mayoral Disaster Declaration”) directing McKinney residents to shelter in place with certain exceptions, and requiring certain businesses operating in McKinney to cease activities while allowing other Essential Businesses to operate, beginning March 26, 2020; and

WHEREAS, the Disaster Act authorizes the governing body of the City of McKinney to continue or renew a declared local state of emergency for a period of more than seven (7) days; and

WHEREAS, on March 27, 2020, the McKinney City Council enacted Ordinance No. 2020-03-024 incorporating Mayor Fuller’s Third Revised Mayoral Disaster Declaration into a valid and binding home rule ordinance under Section 122.006 of the Texas Health and Safety Code, the Texas Constitution, and other applicable state law, to preserve the health and welfare of McKinney citizens during this local disaster through a mayoral declaration issued pursuant to Texas law; and

WHEREAS, on March 31, 2020, the Governor of the State of Texas issued Executive Order No. GA-14 (hereinafter “GA-14”) relating to statewide continuity of essential services and activities during the COVID-19 disaster; and

WHEREAS, on April 3, 2020, the McKinney City Council enacted Ordinance No. 2020-04-025 extending Ordinance 2020-03-04 through April 30, 2020 and incorporating Mayor Fuller’s Third Revised Mayoral Disaster Declaration under Section 122.006 of the Texas Health and Safety Code, the Texas Constitution, the Disaster Act and other applicable state law; and

WHEREAS, on April 17, 2020, the Governor of the State of Texas issued Executive Order No. GA-16 (hereinafter “GA-16”) superseding GA-14 and relating to statewide reopening of certain aspects of the Texas economy during the COVID-19 disaster; and

WHEREAS, the City Council finds that it is in the best interest of the City of McKinney to amend and restate Ordinance No. 2020-04-025 by this ordinance to incorporate the Governor’s Order No. GA-16 in response to the COVID-19 virus outbreak pursuant to its Home Rule Charter, Section 122.006 of the Texas Health and Safety Code, the Texas Constitution, the Disaster Act, and other applicable state law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:

Section 1. On March 16, 2020, the Mayor of the City of McKinney, Texas declared a local state of disaster due to a public health emergency in response to the COVID-19 outbreak for the City of McKinney, Texas effective on March 17, 2020 (the “Mayoral Disaster Declaration”), which was later amended on March 16, 2020 (the “Revised Mayoral Disaster Declaration”) further amended on March 17, 2020 (the “Second Revised Mayoral Disaster Declaration”) and thereafter amended on March 25, 2020 (the “Third Revised Mayoral Disaster Declaration”), pursuant to section 418.108(a) of the Texas Government Code. On April 3, 2020, the City Council adopted Ordinance No. 2020-04-025.

Section 2. Ordinance No. 2020-04-025 was valid until April 30, 2020 at 11:59 p.m.

Section 3. Ordinance No. 2020-04-025 was published in accordance with the McKinney Home Rule Charter and state law.

Section 4. Ordinance No. 2020-04-025 may be amended and restated under state law and the Disaster Act.

Section 5. Pursuant to section 418.108(d) of the Texas Government Code, the Third Revised Mayoral Disaster Declaration activated the City of McKinney Emergency Management Plan under McKinney Ordinance 2008-02-013.

Section 6. The City Council hereby amends and restates Ordinance No. 2020-04-025 authorizing the City to take any actions necessary to promote health and suppress the virus, including, but not limited to the quarantine of persons and occupied structures, examining and regulating hospitals, regulating ingress and egress from the City, regulating ingress and egress to occupied structures, and insuring compliance for those who do not comply with the City's rules, pursuant to section 122.006 of the Texas Health and Safety Code which provides, as follows:

POWERS OF HOME-RULE MUNICIPALITIES. A home-rule municipality may: (1) adopt rules to protect the health of persons in the municipality, including quarantine rules to protect the residents against communicable disease; and (2) provide for the establishment of quarantine stations, emergency hospitals, and other hospitals.

Section 7. The City Council of the City of McKinney, the MEDC board of directors, and the MCDC board of directors and their essential and necessary attendees shall be exempt from this Ordinance for scheduled in-person public meetings, whether a regular, work session, special or emergency meeting. The stated exempt entities shall use best efforts to provide adequate social distancing for members and attendees during any scheduled meetings, including their closed sessions. Whenever possible, teleconferencing shall be utilized for meetings held under this Section. All other City of McKinney boards and commissions may hold regular meetings by teleconferencing or videoconferencing, if capability therefor exists.

Section 8. Beginning upon the passage of this Ordinance:

- A. Subject to GA-16, all individuals currently living within McKinney are ordered to shelter at their place of residence. For the purposes of this Ordinance, residences include hotels, motels, shared rentals, and similar facilities. To the extent individuals are using shared or outdoor spaces, they must at all times as reasonably as possible maintain social distancing of at least six feet from any other person when they are outside their residence. All persons may leave their residences only for Essential Activities, or to provide or perform Essential Governmental Functions, or to operate Essential Businesses, all as defined in this Section 8.
- B. Subject to GA-16, all businesses operating within McKinney, except Essential Businesses as defined in below in this Section 8, are required to cease all activities at facilities located within McKinney. For clarity, businesses may continue operations consisting exclusively of employees or contractors performing activities at their own residences (i.e. working from home). To the greatest extent possible, all Essential Businesses shall comply with the Social Distancing Guidelines attached, including maintaining six-foot social distancing for both employees and the general public.
- C. All public or private gatherings of any number of people occurring outside a single household or living unit are prohibited, except as otherwise provided herein. Nothing in this Ordinance prohibits the gathering of members of a household or living unit.

- D. Restaurants with or without drive-in or drive-through services and microbreweries, micro-distilleries, or wineries may only provide take out, delivery, or drive-through services as allowed by law.
- E. If religious services cannot be conducted from home or through remote services, they should be conducted consistent with the Guidelines from the President of the CDC by practicing good hygiene, environmental cleanliness, and sanitation, and by implementing social distancing to prevent the spread of COVID-19. Funerals are allowed with appropriate social distancing.
- F. Definitions:
 - (1) For purposes of this Ordinance, individuals may leave their residence only to perform any of the following “Essential Activities”:
 - (a) 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 (for example, obtaining medical supplies or medication or visiting a health care professional).
 - (b) To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others (for example, food, pet supply, and any other household consumer products, and products necessary to maintain the safety, sanitation, and essential operation of residences.
 - (c) To engage in outdoor activities, provided the individuals comply with social distancing requirements of six feet (for example, walking, biking, hiking, running, and other exercise activities). Children shall not use playground equipment or any other public recreational structures.
 - (d) To perform work providing essential products and services at an Essential Business or to otherwise carry out activities specifically permitted in this Order.
 - (e) To care for a family member or pet in another household. - (2) For purposes of this Ordinance, “Essential Businesses” means:
 - (a) **Essential Healthcare Operations.** Healthcare operations, including hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, mental health providers, substance abuse service providers, blood banks, medical research, laboratory services, or any related and/or ancillary healthcare services. Home-based and residential-based care for seniors, adults, or children are also considered healthcare operations. Healthcare operations also includes veterinary care and all health and welfare services provided to animals. This exemption shall be viewed broadly to avoid any impacts to the delivery of healthcare. Healthcare operations do not include fitness and exercise gyms and similar facilities.

- (b) **Essential Government Functions.** All services provided by local governments needed to ensure the continuing operation of the government agencies to provide for the health, safety and welfare of the public. Further, nothing in this order shall prohibit any individual from performing or accessing “Essential Government Functions.” All Essential Government Functions shall be performed in compliance with social distancing requirements of six feet, to the extent possible.
- (c) **Essential Critical Infrastructure.** Work necessary to the operations and maintenance of the 16 critical infrastructure sectors as identified by the National Cybersecurity and Infrastructure Agency (CISA) including public works construction, residential and commercial construction, airport operations, water, sewer, gas, electrical, oil refining, roads and highways, public transportation, solid waste collection and removal, internet, and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services), financial institutions, defense and national security-related operations, elimination of hazardous materials, essential manufacturing operations provided that they carry out those services or that work in compliance with social distancing requirements of six feet, to the extent possible. Essential Businesses providing essential infrastructure should implement screening precautions to protect employees and all activity shall be performed in compliance with social distancing guidelines attached.
- (d) **Essential Retail.** Food service providers, including grocery stores, warehouse stores, bodegas, liquor stores, gas stations and convenience stores, farmers’ markets that sell food products and household staples. Food cultivation, including farming, fishing, and livestock. Businesses that ship or deliver groceries, food, goods or services directly to residences. Restaurants and other facilities that prepare and serve food, but only for delivery or carry out. Schools and other entities that typically provide free services to students or members of the public on a pick-up and take-away basis only. The restriction of delivery or carry out does not apply to cafes and restaurants located within hospital and medical facilities. Laundromats, dry cleaners, and laundry service providers. Gas stations, auto-supply, auto, bicycle repair and essential business equipment suppliers, hardware stores, and related facilities. Businesses that supply products needed for people to work from home. **Essential Retail businesses shall post entry signage instructing patrons of the need to limit patron visits to necessary purchases only and to maintain social distancing. Essential Retail businesses shall provide a sanitation station as a required first stop for patron entering the business.**
- (e) **Providers of Basic Necessities to Economically Disadvantaged Populations.** Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals.

- (f) **Essential Services Necessary to Maintain Essential Operations of Residences or Other Essential Businesses.** Trash and recycling collection, processing and disposal, mail and shipping services, building cleaning, maintenance and security, warehouse/distribution and fulfillment, storage for essential businesses, funeral homes, crematoriums and cemeteries. Plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operations of residences and Essential Businesses. Professional services, such as legal or accounting services, when necessary to assist in compliance with legally mandated activities. Businesses that supply other Essential Businesses with support or supplies needed to operate, including real estate services.
 - (g) **News Media.** Newspapers, television, radio, and other media services.
 - (h) **Childcare Services.** Childcare facilities providing services that enable employees exempted in this Ordinance to work as permitted.
- G. Any manufacturer who retools so that a substantial part of their business is for the purpose of manufacturing and producing ventilators may apply for an “Essential Business” exemption under this Ordinance.
- H. Grocery stores, supermarkets, warehouse stores, hospitals, and medical facilities are experiencing high levels of demand for a large number of products, requiring more deliveries from manufacturers and distribution centers to serve their customers. Due to the need to deliver products as quickly and efficiently as possible during this critical timeframe, this Ordinance hereby suspends all delivery hour restrictions for transport to or from any entity involved in the selling or distribution of food products, medicine, or medical supplies in McKinney for the duration of this Ordinance.
- I. Due to increased demand for bath or toilet tissue resulting from stock up buying and individuals who purchase for resale, a mandatory limit on toilet paper sales is instituted until the supply chain meets the demand or two weeks, whichever comes first. All sales of bath or toilet tissue occurring in McKinney are limited to the greater of: (a) twelve (12) rolls per purchase or (b) one (1) package per purchase.
- J. If someone in a household has tested positive for coronavirus, the household is ordered to isolate at home. Members of the household cannot go to work, school, or any other community function.
- K. Nursing homes, retirement, and long-term care facilities are instructed by this order to prohibit non-essential visitors from accessing their facilities unless to provide critical assistance or for end-of-life visitation.
- L. Public and private schools and institutions of higher education are instructed by this Ordinance to provide a safety plan to the appropriate Office of Homeland Security and Emergency Management 72 hours before students return to a classroom setting.

- M. Additionally, this Ordinance instructs all employees to remain at home if sick. Employees of private businesses and nonprofits with six (6) or more employees in McKinney can use their paid sick leave when they are sick or to care for sick family members.
- N. The owner, manager, or operator of any facility that is likely to be impacted by this Ordinance is strongly encouraged to post a copy of this Ordinance onsite and to provide a copy to any member of the public asking for a copy. If any subsection, sentence, clause, phrase, or word of this Ordinance or any application of it to any person, structure, gathering, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision will not affect the validity of the remaining portions or applications of this Ordinance.

Section 9. The following are approved Social Distancing Recommendations:

A. Vulnerable Populations: Limit Outings

- (1) Vulnerable populations include people who are:
 - (a) 60 years old and older.
 - (b) People with certain health conditions such as heart disease, lung disease, diabetes, kidney disease and weakened immune systems.
- (2) For vulnerable populations, don't go to gatherings unless it is essential. Stay home. Avoid people who are sick.

B. Workplace and Businesses: Minimize Exposure

- (1) Suspend nonessential employee travel.
- (2) Ensure employees practice social distancing and do not work within six feet of one another.
- (3) Urge essential employees to stay home when they are sick and maximize flexibility in sick leave benefits.
- (4) Do not require a doctor's note for employees who are sick.
- (5) Maximize telecommuting options.
- (6) Persons who need to be at work to provide essential services of great benefit to the community must take steps in their workplace to minimize risk.

C. Cancel Non-essential Events

- (1) Cancel non-essential events.
- (2) Do not attend any essential or non-essential events or gatherings, if sick.
- (3) For events that meet the Recommendations herein and which aren't cancelled, we recommend:

- (a) Having hand washing capabilities, hand sanitizers and tissues available.
- (b) Frequently cleaning high touch surface areas like counter tops and handrails.
- (c) Finding ways to implement social distancing.

D. Schools: Safety First

- (1) Do not have your child attend school if sick.
- (2) If you have a child with chronic health conditions, consult the child's doctor about school attendance.
- (3) Schools should equip all classrooms with hand sanitizers and tissues.
- (4) Recommend rescheduling or cancelling events that are not essential.
- (5) Explore remote teaching and online options to continue learning.
- (6) Schools should develop a plan for citywide school closures, and families should prepare for further closures.

E. Transit: Cleaning and Protection

- (1) Increase cleaning of vehicles and high touch surface areas.
- (2) Provide hand washing/hand sanitizers and tissues in stations and on vehicles.
- (3) Ensure social distancing practices are implemented to the full extent possible.

F. Health Care Settings: Avoid as possible, protect the vulnerable

- (1) Long-term care facilities should have a COVID-19 plan in accordance with CDC or state guidelines.
- (2) Long-term care facilities should restrict all visitation except for certain compassionate care situations, such as end of life situations.
- (3) The general public should avoid going to medical settings such as hospitals, nursing homes and long-term care facilities, even if you are not ill.
- (4) If you are ill, call your health care provider ahead of time, and you may be able to be served by phone.
- (5) Do not visit emergency rooms unless it is essential.
- (6) Follow guidance and directions of all facilities.

G. Everyone: Do your part

- (1) The best way for all McKinney residents to reduce their risk of getting sick, as with seasonal colds or the flu, still applies to prevent COVID-19:
 - (a) Wash hands with soap and water for at least 20 seconds.
 - (b) Cough or sneeze into your elbow or a tissue. Throw the tissue in the trash.
 - (c) Stay home if you are sick.
 - (d) Avoid touching your face.
 - (e) Try alternatives to shaking hands, like an elbow bump or wave.
 - (f) If you have recently returned from a country, state or region with ongoing COVID-19 infections, monitor your health and follow the instructions of public health officials and CDC guidance.
 - (g) There is no recommendation to wear masks at this time to prevent yourself from getting sick.

- (2) You can also prepare for the disruption caused by an outbreak. Preparedness actions include:
 - (a) Prepare to work from home if that is possible for your job, and your employer.
 - (b) Make sure you have a supply of all essential medications for your family.
 - (c) Prepare a childcare plan if you or a caregiver are sick.
 - (d) Make arrangements about how your family will manage school closures.
 - (e) Plan for how you can care for a sick family member without getting sick yourself.
 - (f) Take care of each other and check in by phone with friends, family and neighbors that are vulnerable to serious illness or death if they get COVID-19.
 - (g) Keep common spaces clean to help maintain a healthy environment for you and others. Frequently touched surfaces should be cleaned regularly with disinfecting sprays, wipes or common household cleaning products.

Section 10. This Ordinance hereby incorporates the Governor's Executive Order No. GA-16 relating to the safe, strategic reopening of select services as the first step to Open Texas in response to the COVID-19 disaster for the duration of this Ordinance. Notwithstanding the foregoing and in accordance with GA-16, this Ordinance provides additional local restrictions that are consistent with GA-16. The provisions of GA-16 shall govern in the event of a conflict between the provisions of GA-16 and this Ordinance.

Section 11. This Ordinance hereby authorizes the use of all lawfully available enforcement tools.

Section 12. Any person, firm or corporation violating any of the provisions of this Ordinance commits an offense, punishable by a fine up to \$1000.00, and each and every day such violation shall continue shall be deemed to constitute a separate, municipal offense within the jurisdiction of the Municipal Court of the City of McKinney.

Section 13. This Ordinance shall take effect immediately upon its passage and shall remain in effect until April 30, 2020 at 11:59 p.m.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THE 21st DAY OF APRIL, 2020.

CITY OF MCKINNEY, TEXAS

GEORGE C. FULLER
Mayor

CORRECTLY ENROLLED:

EMPRESS DRANE
City Secretary

DATE: _____

APPROVED AS TO FORM

MARK S. HOUSER
City Attorney