

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARROLLTON, TEXAS, AMENDING AND RESTATING ORDINANCE NO. 3953 RELATIVE TO RULES TO PROTECT THE HEALTH OF PERSONS IN THE CITY; ADOPTING AND APPROVING CERTAIN RULES REQUIRING THE COVERING OF NOSE AND MOUTH BY PERSONS WITHIN THE CITY IN SPECIFIED SITUATIONS; PROVIDING FOR A FINE FOR CERTAIN PROVISIONS OF UP TO \$500 FOR EACH OFFENSE IN VIOLATION OF THIS ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY, GOVERNMENTAL IMMUNITY, INJUNCTIONS, AND AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY

WHEREAS, in December 2019, a novel coronavirus, now designated COVID-19, was detected in Wuhan, China; and

WHEREAS, symptoms of COVID-19 include fever, cough, and shortness of breath, and can range from mild to severe illness and in some cases death; and

WHEREAS, on January 30, 2020, the World Health Organization Director General declared the outbreak of COVID-19 as a Public Health Emergency of International Concern advising countries to prepare for the containment, detection, isolation and case management, contact tracing and prevention of onward spread of the disease; and

WHEREAS, on March 5, 2020, the World Health Organization Director General urged aggressive preparedness and activation of emergency plans to aggressively change the trajectory of this epidemic; and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a worldwide pandemic; and

WHEREAS, the Centers for Disease Control and Prevention is closely monitoring the growing number of COVID-19 cases that have spread into the United States; and

WHEREAS, Dr. Anthony Fauci, the United States' top infectious disease expert, has recommended the institution of stay-at-home orders in order to save human life and prevent further transmission of COVID-19; and

WHEREAS, gatherings of unidentifiable individuals without necessary mitigation for the spread of infection may pose a risk of the spread of infectious disease; and

WHEREAS, unless the actions as hereby provided are immediately initiated, avoidable serious illness and deaths could occur; and

WHEREAS, COVID-19 spreads between people who are in close contact with one another through respiratory droplets produced when an infected person coughs or sneezes; and

WHEREAS, the continued worldwide spread of COVID -19 presents an imminent threat of widespread illness, which requires emergency action; and

WHEREAS, a declaration of local state of disaster includes the ability to take measures to reduce the possibility of exposure to disease, mitigate the risk, and promote the health and safety of the residents of the City of Carrollton; and

WHEREAS, the measures identified in the Declaration of Local Disaster are designed to prevent deaths in the City of Carrollton; and

WHEREAS, the identification of “community spread” cases of COVID-19 in the City of Carrollton and the region could potentially signal that transmission of the virus may no longer be limited to travel outbreak areas or contact with travelers who have visited outbreak areas; and

WHEREAS, the City of Carrollton is working collaboratively with Dallas, Denton, and Collin Counties to ensure that all appropriate and necessary measures are taken to limit the development, contraction, and spread of COVID-19; and

WHEREAS, Dallas County Judge Clay Jenkins issued a Declaration of Disaster Due to Public Health Emergency for Dallas County for COVID-19 on March 12, 2020, which was extended through May 20, 2020, by the Commissioner’s Court on April 3, 2020; and

WHEREAS, Denton County Judge Andy Eads issued a Declaration of Disaster Due to Public Health Emergency for Denton County for COVID-19 on March 13, 2020, which was extended through April 30, 2020, by the Commissioner’s Court on April 7, 2020; and

WHEREAS, Collin County Judge Chris Hill issued a Declaration of Disaster Due to Public Health Emergency for Collin County for COVID-19 on March 16, 2020; and

WHEREAS, Governor Greg Abbott issued a State of Disaster for all Texas counties for COVID-19 on March 13, 2020; and

WHEREAS, President Donald Trump declared a State of National Emergency for the United States of America on March 13, 2020; and

WHEREAS, on March 13, 2020, Mayor Kevin Falconer, acting in accordance with authority granted to him under the Charter and under Section 418.108(a) of the Texas Government Code, declared a local state of disaster for the City of Carrollton due to concerns related to COVID-19, and in Resolution No. 4373 the City Council continued such declaration and authorized additional measures for the protection of the public on March 19, 2020 (hereafter "Resolution"); and

WHEREAS, on March 18, 2020, the Mayor issued an Order that limited social and recreational gatherings and closed restaurants, except for drive-thru, pick-up, and to-go orders as additional measures to protect the health of persons in the City; and

WHEREAS, on March 19, 2020, John W. Hellerstedt, M.D., the Commissioner of the Texas Department of State Health Services, in accordance with Section 81.082(d) of the Texas Health and Safety Code, declared a state of public health disaster for the entire State of Texas for the first time since 1901; and

WHEREAS, on April 17, 2020, Texas State Governor Greg Abbott issued some revisions to Executive Order No. GA-14, through GA-15 and GA-16, to further reduce the spread of COVID-19 within the State of Texas, while allowing the easing of restrictions for specified businesses; and

WHEREAS, Sections 121.003 and 122.006 of the Texas Health and Safety Code provide that the City of Carrollton is authorized to adopt rules to protect the health of persons in the City of Carrollton; and

WHEREAS, the conditions necessitating the disaster declaration continue to exist and extraordinary and immediate measures must be taken to respond quickly to prevent and alleviate the suffering of people exposed to and those infected with the virus, as well as those that could potentially be infected or impacted by COVID-19; and

WHEREAS, as safer-at-home restrictions are eased state-wide, the City Council has determined, based on CDC recommendations, that adding nose and mouth covering requirements to social distancing restrictions can help prevent the spread of the COVID-19 virus; and

WHEREAS, the City Council finds that it is in the public interest to authorize additional measures as described herein pursuant to the Texas Disaster Act of 1975, as amended, Vernon's Texas Government Code, and provide rules to protect the health of persons in the City pursuant to the Texas Health and Safety Code, as amended;

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

SECTION 1.

The above and foregoing premises are found to be true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2.

Pursuant to Sections 121.003 and 122.006 of the Texas Health and Safety Code, this Ordinance adopts the following:

1. This Ordinance authorizes the City to take any actions necessary to promote health and suppress disease, including quarantine, examining and regulating hospitals, regulating ingress and egress from the City, and fining those who do not comply with the City's rules, pursuant to Section 122.006 of the Health and Safety Code.

2. All individuals living in the City of Carrollton shall stay at their place of residence, except as allowed by this Ordinance. 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 (6) feet from any other person when they are outside their residence. All persons may leave their residences only for Essential Travel, Essential Activities, to provide or perform Essential Governmental Functions, or to operate Essential Businesses, all as herein after defined in this Ordinance.

3. All businesses operating within the City of Carrollton, except Essential Businesses as hereinafter defined, are required to close to the public. For clarity, businesses may continue operations consisting exclusively of the following, as long as social distancing of at least six feet (6') is maintained between all employees and contractors during the activities and all employees and contractors are wearing a Nose and Mouth Covering, as defined herein:

- A. Performing activities at their own residences (i.e. working from home);
- B. Operations necessary to process payroll and employee benefits, and maintain security, upkeep, and maintenance of premises, equipment or inventory, including but not limited to the care and maintenance of livestock or animals;
- C. IT or other operations that facilitate employees working from home;
- D. Facilitate online or call-in sales performed by employees in a store or facility closed to the public;
- E. In-store repair services performed by employees in a store or facility closed to the public.

To the greatest extent possible, all Essential Businesses shall maintain six foot (6') social distancing for both employees and the general public and both the employees and public are wearing a Nose and Mouth Covering.

4. That this Ordinance hereby orders that a restaurant with or without drive-in or drive-through services; drive-in restaurant; drive-through restaurant; liquor stores; or microbrewery, micro-distillery, or winery may only provide take out, delivery, or drive-in or drive-through services as allowed by law. In no event shall more than ten (10) non-employees be present inside of a business covered by this section at any one time. All employees and non-employees shall wear a Nose and Mouth Covering.

5. 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.

6. All elective medical, surgical, and dental procedures are prohibited anywhere in the City of Carrollton. Hospitals, ambulatory surgery centers, dental offices, and other medical facilities are directed to identify procedures that are deemed "elective" by assessing which procedures can

be postponed or cancelled based on patient risk considering the emergency need for redirection of resources to COVID-19 response.

7. If someone in a household has tested positive for COVID-19, the household is ordered to isolate at home. Members of the household cannot go to work, school, or any other community function until cleared by a medical professional but may seek medical services as needed from medical personnel and facilities.

8. Nursing homes, retirement, and long-term care facilities are to prohibit non-essential visitors from accessing their facilities unless to provide critical assistance or for end-of-life visitation.

9. Individuals experiencing homelessness are strongly urged to obtain shelter and maintain social distancing of six feet (6') when feasible. If a homeless person is sheltered and exhibits symptoms or is diagnosed, the shelter's isolation center shall be deemed the residence of the homeless person solely for the purpose of complying with the requirements of this Ordinance. Medical personnel shall make the decision whether any other shelter residents shall be required to isolate based on potential exposure. Available shelters, to the maximum extent practicable, must use COVID-19 risk mitigation practices in their operations.

10. During the term of this Ordinance, no person shall sell any of the following goods or services for more than the price the person was charged for the goods or services on April 7, 2020:

- A. Groceries, beverages, toilet articles, ice;
- B. Restaurant, cafeteria, and boarding-house meals; and
- C. Medicine, pharmaceutical, and medical equipment and supplies.

11. Definitions:

- A. For purposes of this ordinance, individuals may leave their residence only to perform any of the following "Essential Activities":
 - i. 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, visiting a health care professional, or obtaining supplies needed to work from home).
 - ii. 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 and livestock supplies, and any other household consumer products, and products necessary to maintain the safety, sanitation, and essential operation of residences). It is strongly recommended that households, to the greatest extent possible, send only one

person to businesses for the purpose of picking up food or other essential items.

- iii. To engage in outdoor activity, provided the individuals comply with social distancing requirements of six (6) feet (for example, walking, biking, hiking, golfing, or running).
- iv. To perform work providing essential products and services at an Essential Business, to otherwise carry out activities directly related to government or health care response to the COVID-19 pandemic, or to otherwise carry out activities specifically permitted in this ordinance.
- v. To care for a family member or pet in another household.

B. For purposes of this Ordinance, “Essential Businesses” means:

- i. **Essential Health Care Services.** Healthcare operations, including hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers, substance abuse providers, blood banks, medical research, or any related and/or ancillary healthcare services, veterinary care provided to animals. Home-based care for seniors, adults, or children. Residential facilities and shelters for seniors, adults, and children. Healthcare operations do not include fitness and exercise gyms and similar facilities. Healthcare operations do not include elective medical, surgical, and dental procedures as established in accordance with this ordinance.
- ii. **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. All Essential Government Functions shall be performed in compliance with social distancing requirements of six (6) feet, to the extent possible.
- iii. **Essential Critical Infrastructure.** Work necessary to the operations and maintenance of the sixteen (16) critical infrastructure sectors as identified by the National Cybersecurity and Infrastructure Agency (CISA) including public works construction, residential and commercial construction, water, sewer, gas, electrical, oil refining, roads and highways, public transportation and other private transportation providers such as Uber and Lyft that provide transportation services necessary for the performance of essential activities, essential businesses, essential infrastructure, and essential government function, 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, and essential manufacturing operations.

- iv. **Essential Retail.** Food service providers, including grocery stores, warehouse stores, other retail stores, bodegas, gas stations, convenience stores, and farmers' markets that sell food products and household staples, and pet and feed stores. Businesses not open to the public that ship or deliver groceries, food, goods or services directly to residences. Liquor stores and restaurants and other facilities that prepare and serve food, but only for delivery, take out, drive-in, drive-through 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. Businesses that supply products needed for people to work from home, including businesses providing mail, shipping, and post office boxes. Businesses that supply products necessary for essential repairs and maintenance of a home or business. Hotel, motels, and shared rental units, except that all bars, cafes, or restaurants are closed except for pick-up and room service. Businesses that provide for the delivery of, or preparation of, vehicles.
- v. **Providers of Basic Necessities to Economically Disadvantaged Populations.** Social services and charitable organizations that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals; that provide food, shelter, social services, and other necessities of life for economically disadvantaged or otherwise vulnerable individuals.
- vi. **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 and maintenance, auto repair, warehouse/distribution and fulfillment, and storage for essential businesses. Plumbers, pool services, security services, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operations of residences, Essential Activities, 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.
- vii. **News Media.** Newspapers, television, radio, and other media services.

- viii. **Financial Institutions.** Banks and related financial institutions, consumer lenders, sales and finance lenders, credit unions, appraisers, and title companies.
- ix. **Real Estate Transactions.** Services related to current real estate transactions. As much business as possible shall be conducted with web-based technology to limit in-person contact.
- x. **Childcare Services.** Childcare facilities providing services that enable employees who perform Essential Activities or work for an Essential Business to work as permitted.
- xi. **Animal Shelters, Zoos, and Other Businesses that Maintain Live Animals.** Businesses that maintain and care for live animals are not permitted to allow any visitors or patrons but may continue to operate to the extent necessary to provide the necessary care for the animals. Nothing in this section shall prohibit a non-employee from entering the premises to perform a health care service or another Essential Business service.
- xii. **Construction.** Construction under a valid permit issued by a governmental entity.
- xiii. **Funeral Services.** Funeral homes, crematoriums, and cemeteries may operate but no more than ten (10) non-employees may be present at the same time.
- xiv. **Wedding Services.** Weddings may be held, but no more than ten (10) persons may be present at any one time. Social distancing is required. Weddings may not be held inside a City building.
- xv. **Worship Services.** No in-person worship services are permitted within a structure or worship building. Needed staff can attend to produce audio/video services for transmission. All houses of worship are encouraged to seek out “creative means”, such as drive-in services or curbside communion or confession, as set forth in the April 1, 2020, guidance issued by Governor Greg Abbott and Attorney General Ken Paxton at:

<https://www.texasattorneygeneral.gov/sites/default/files/images/admin/2020/Press/AG%20Guidance%20for%20Houses%20of%20Worship%20During%20the%20COVID-19%20Crisis.pdf>
- xvi. **Moving Supply Services.** Businesses that provide residential and/or commercial moving services and necessary moving supplies.

C. **Essential Travel.** For the purposes of this Ordinance, “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.

- i. Any travel related to the provision of or access to Essential Activities, Essential Governmental Functions, and Essential Businesses;
- ii. Travel to care for elderly, minors, dependents, persons with disabilities, or other vulnerable persons;
- iii. Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services;
- iv. Travel to return to a place of residence from outside the jurisdiction;
- v. Travel required by law enforcement or court order;
- vi. Travel by church staff/clergy for the purpose of production of remote delivery of religious services and other ministries requiring travel;
- vii. Travel related to attending a funeral service; or
- viii. Travel required for non-residents to return to their place of residence outside the City. Individuals are strongly encouraged to verify that their transportation out of the City remains available and functional prior to commencing such travel.

D. **Nose and Mouth Covering.** Because an infected person can transmit the COVID-19 virus to others before showing any symptoms, the covering of a person’s nose and mouth is necessary to help slow the spread of the virus. Effective at 11:59 p.m. on April 21, 2020, to the greatest extent possible, all persons over the age of two (2) shall wear some form of covering over their nose and mouth, such as a homemade mask, scarf, bandana, or handkerchief, when patronizing an Essential Business or using public transportation. Parents and Guardians of children under ten (10) shall be responsible for appropriately masking children pursuant to this Ordinance. To the greatest extent possible, all non-medical employees who work at an Essential Businesses or perform services that are exempt under this Ordinance must wear face coverings over their noses and mouths while performing their work. An owner or operator of an Essential Business may refuse admission or service to any individual who fails to wear nose and mouth covering. Wearing a nose and mouth covering is not a substitute for maintaining six feet (6’) social distancing and hand washing, as these remain important steps to slowing the spread of the virus.

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

13. This Ordinance incorporates the DCHHS Social Distancing Recommendations, as amended, as if set forth verbatim herein.

14. This Ordinance sets forth strong recommendations, attached hereto, for the purpose of mitigating the spread of COVID-19.

15. In accordance with Attorney General Opinion KP-0296, nothing in this Ordinance shall be construed to prohibit or regulate the transfer, possession, or ownership of firearms, or commerce in firearms.

SECTION 3.

The City Manager, or her designee shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted to, or duties imposed upon the City Manager or her designee, may be delegated by her to a designated city official, the Carrollton Police Department, Carrollton Fire Rescue, code enforcement, and other city personnel or authorized representatives

SECTION 4.

Pursuant to the Texas Disaster Act of 1975, the Emergency Management Chapter of the Code of the City of Carrollton, and Chapter 81, Section 121.006 of the Texas Health and Safety Code, that nursing homes, assisted living facilities, and other residential facilities engaged in the health care of seniors, adults, or children, will comply with instructions and requests of the City's fire chief or emergency management coordinator, working in conjunction with the Local Health Authorities, that relate to the spread and response to COVID-19. All healthcare operations, including hospitals and the facilities named in this paragraph, will abide by any instructions given by the City's fire chief or emergency management coordinator relative to reporting of information related to the COVID-19 response, when requested.

SECTION 5.

This Ordinance shall take effect at 11:59 pm on April 7, 2020, unless otherwise provided by law, and shall be in effect until May 12, 2020 at 11:59 pm.

SECTION 6.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this Ordinance commits an offense that is considered a class C misdemeanor and each day the violation continues shall be a separate offense punishable by a fine of not more than \$500. A culpable mental state is not required for the commission of an offense under this ordinance and need not be proved. The penalty provided for in this Ordinance is in addition to any other remedies that the City may have under City ordinances and state law.

SECTION 7.

All of the regulations provided in this Ordinance are hereby declared to be governmental and for the health, safety, and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of the Ordinance, acting for the City of Carrollton in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

SECTION 8.

Any violation of this Ordinance can be enjoined by a suit filed in the name of the City of Carrollton in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this Ordinance or in the Code of the City of Carrollton.

SECTION 9.

This Ordinance shall be cumulative of all other ordinances of the City, and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance; provided, however, that any complaint, notice, action, cause of action, or claim which prior to the effective date of this Ordinance has been initiated or has arisen under or pursuant to such other ordinance(s) shall continue to be governed by the provisions of that ordinance or those ordinances, and for that purpose that ordinance or those ordinances shall be deemed to remain and shall continue in full force and effect.

SECTION 10.

The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 11.

This Ordinance shall take effect immediately upon its adoption in accordance with and as provided by law and the City Charter.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Carrollton, Texas, on this the 21 day of April, 2020.

CITY OF CARROLLTON, TEXAS

Kevin W. Falconer, Mayor

ATTEST:

Laurie Wilson, City Secretary

APPROVED AS TO FORM:

Meredith A. Ladd, City Attorney