

ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE DECLARING A SITE THAT FAILS TO MEET CERTAIN  
2 STANDARDS DESIGNED TO PREVENT THE TRANSMISSION OF COVID-19  
3 AS A PUBLIC HEALTH NUISANCE; AUTHORIZING CIVIL ENFORCEMENT;  
4 AND DECLARING EMERGENCY.

5 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

6 PART 1. FINDINGS. The City Council finds:

- 7 (1) On March 6, 2020, Mayor Steve Adler issued a Declaration of Local  
8 Disaster that allows the City to take measures to reduce the possibility of  
9 exposure to COVID-19 and promote the health and safety of Austin  
10 residents; and
- 11 (2) On March 13, 2020, Governor Greg Abbott issued a Declaration of State of  
12 Disaster to prepare for, respond to, and mitigate the spread of COVID-19 to  
13 protect the health and welfare of Texans; and
- 14 (3) Coronavirus (COVID-19) is a virus that spreads mainly between people who  
15 are in close contact with one another (within about 6 feet) through  
16 respiratory droplets produced when an infected person speaks, sings, coughs,  
17 or sneezes; and it also may be possible that a person can get COVID-19 by  
18 touching a surface that has the virus on it and then touching their own  
19 mouth, nose, or possibly their eyes; and
- 20 (4) A significant percentage of individuals with the COVID-19 virus lack  
21 symptoms, which means an infected person can transmit the virus to others  
22 before showing any symptoms; and
- 23 (5) Section 341.011 of the Texas Health and Safety Code declares an object,  
24 place, or condition that is a possible and probable medium of disease  
25 transmission in or between humans is a public health nuisance.

26 PART 2. DEFINITIONS.

27 (A) A term defined in City Code Section 1-1-2 (*General Definitions*) has the same  
28 meaning in this ordinance.

29 (B) In this ordinance, the following definitions apply:

- 30 (1) COVID-19 means the pandemic that is the subject of the Local Disaster  
31 Declaration, dated March 6, 2020.
- 32 (2) FACE COVERING means a covering that fits snugly over an individual's  
33 nose and mouth, such as a commercially made or homemade fabric mask,  
34 scarf, bandana, handkerchief, or shield.
- 35 (3) GENERAL HEALTH PRE-SCREENING means:
- 36 (a) asking questions intended to find out whether a worker is  
37 experiencing symptoms or has been exposed to someone with  
38 COVID-19;
- 39 (b) reiterating public health requirements; and
- 40 (c) checking face coverings.
- 41 (4) HAND SANITIZER means a liquid or gel generally used to decrease  
42 infectious agents on the hands that consists of at least 60% alcohol.
- 43 (5) HIGH TOUCH ITEM means an object, surface, tool, equipment, or piece of  
44 electronics that is utilized by individuals multiple times a day. This includes,  
45 but is not limited to, levers, light switches, phones, remote controls,  
46 counters, tabletops, doorknobs, bathroom fixtures, toilets, keyboards, tablets,  
47 hammers and wrenches.
- 48 (6) MAINTAINS means to own, operate, manage, or oversee a site.
- 49 (7) MINIMUM STANDARD means a standard set forth in PART 6 of this  
50 ordinance.
- 51 (8) PERSON IN CONTROL means a person who maintains a site.
- 52 (9) SITE means property. A site does not include:
- 53 (a) property maintained by a governmental entity;
- 54 (b) property where medical services are provided;
- 55 (c) property where a child care program operates; or
- 56 (d) dwelling unit where an individual resides.
- 57 (10) VULNERABLE INDIVIDUAL means an individual who:

- 58 (a) is 65 years old and older; or  
59 (b) has certain health conditions such as heart disease, lung disease,  
60 diabetes, kidney disease, Human Immunodeficiency Virus (HIV),  
61 Acquired Immune Deficiency Syndrome (AIDS), or a weakened  
62 immune system.
- 63 (11) WORKER means an employee, independent contractor, subcontractor, or  
64 other similar agent present at the site.

65 **PART 3. DECLARATION.** The City Council declares a site that does not follow the  
66 minimum standards established in this ordinance as a public health nuisance because it is  
67 a place or condition that is a possible and probable medium of COVID-19 transmission in  
68 or between humans.

69 **PART 4. APPLICABILITY.** This ordinance applies to a site with 10 or more  
70 individuals present at any one time.

71 **PART 5. PUBLIC HEALTH NUISANCE.** A person who maintains a site that does not  
72 comply with minimum standards maintains a public health nuisance.

73 **PART 6. MINIMUM STANDARDS.**

- 74 (A) A person in control of a site shall:
- 75 (1) require each individual to wear a face covering except as provided in  
76 Subsection (B) below;
- 77 (2) clean and disinfect high touch items at least twice per day;
- 78 (3) post one or more face covering signs at or near each entrance;
- 79 (4) limit the number of individuals who gather or stand together to 10 or less;
- 80 (5) require at least six feet of distance between groups of individuals;
- 81 (6) conduct a general health pre-screening of each worker every day before the  
82 worker begins his or her shift;
- 83 (7) post one sign in English and one sign in Spanish where information for  
84 workers is customarily posted that explains the requirement to remain at  
85 least six feet apart and the requirement to wear a face covering;

- 86 (8) keep toilets clean, sanitary and operational at all times and ensure proper  
87 disposal of waste from these facilities;
- 88 (9) provide single use disposable paper towels and no-touch trash receptacles in  
89 restrooms and breakrooms;
- 90 (10) mandate workers wash their hands for at least twenty seconds at the  
91 following times:
- 92 (a) before workers begin work;
- 93 (b) after workers remove gloves;
- 94 (c) before and after the use of shared items such as tools, electronic  
95 devices or multi-user devices;
- 96 (d) before and after any meal or restroom breaks; and
- 97 (e) after a worker's shift or work time ends; and
- 98 (11) for workers confirmed to have contracted COVID-19, follow all directions  
99 from Austin Public Health concerning that worker and other workers that  
100 may have come in contact with the infected worker.
- 101 (B) Face Covering Exceptions. A face covering is not required for:
- 102 (1) any person younger than 10 years of age;
- 103 (2) any person with a medical condition or disability that prevents wearing a  
104 face covering;
- 105 (3) any person while the person is eating or drinking, or is seated at a restaurant  
106 to eat or drink;
- 107 (4) any person while the person is:
- 108 (a) exercising outdoors or engaging in physical activity outdoors and
- 109 (b) maintaining a safe distance from others not in the same household;
- 110 (5) any person while the person is driving alone or with passengers of the same  
111 household as the driver;

- 112 (6) any person obtaining a service that requires temporary removal of the face  
113 covering for security surveillance, screening, or the need for specific access  
114 to the face, such as while visiting a bank or while obtaining a personal care  
115 service involving the face, but only to the extent necessary for the temporary  
116 removal;
- 117 (7) any person while the person is in a swimming pool, lake, or similar body of  
118 water;
- 119 (8) any person who is voting, assisting a voter, serving as a poll watcher, or  
120 actively administering an election;
- 121 (9) any person who is actively providing or obtaining access to religious  
122 worship;
- 123 (10) any person while the person is giving a speech for a broadcast or to an  
124 audience;
- 125 (11) any person while temporary removal of the face covering is necessary for  
126 communication by or with a person who is hearing impaired; or
- 127 (12) any person who is alone, or in the presence of only members of the same  
128 household or residence, in a separate room or single space not accessible to  
129 the public, and not in an indoor common area.
- 130 (C) Construction Sites. In addition to the minimum standards described in Subsection  
131 (A), a person in control of a construction site shall:
- 132 (1) institute staggered shifts for sites with more than 10 active workers and post  
133 at these sites, in languages understood by all workers at the site, a notice  
134 showing the sizes and types of shift crews working there, and directions on  
135 how the person in control is limiting crew sizes and rotating shifts;
- 136 (2) ensure handwashing station and restroom(s) are spaced six feet apart or more  
137 from each other;
- 138 (3) prohibit the use of community water coolers;
- 139 (4) provide individual water bottles or instruct workers to bring their own;
- 140 (5) designate a COVID-19 safety monitor who is on-site at all times; and

- 141 (6) ensure that each worker who enters a jobsite has signed in and keep a list of  
142 and contact information for each worker that enters the jobsite every day for  
143 the purpose of identifying and notifying workers if they have shared a  
144 jobsite with someone who has been confirmed to have COVID-19.

145 **PART 7. CIVIL ENFORCEMENT.**

146 (A) The City Council authorizes the health authority to request the city attorney  
147 to enforce this ordinance through a civil suit filed in district court for  
148 injunctive relief that:

- 149 (1) requires specific conduct necessary to abate the public health  
150 nuisance; and  
151 (2) prohibits specific conduct that constitutes a public health nuisance.

152 (B) The City Council approves the filing of a civil suit described in Subsection  
153 (A).

154 **PART 8. ASSISTING HEALTH AUTHORITY.**

155 The City Manager may designate one or more city departments to assist the  
156 health authority with administering, implementing, and enforcing this ordinance,  
157 including providing written notices that describe how the site fails to comply with  
158 the minimum standards set forth in this ordinance.

159 **PART 9.** It is declared to be the intention of the City Council that the phrases,  
160 sentences, paragraphs and sections of this ordinance are severable. If any part of  
161 this ordinance shall be declared unconstitutional by the valid judgment or decree of  
162 any court of competent jurisdiction, such unconstitutionality shall not affect the  
163 remaining phrases, sentences, paragraphs and sections.

164 **PART 10.** The COVID-19 pandemic and related emergency declarations and  
165 orders authorizing the operation of various businesses jeopardize public health and  
166 safety of individuals within the City. Because of this emergency, this ordinance  
167 takes effect the day following publication for the preservation of the public peace,  
168 health, and safety.

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**PASSED AND APPROVED**

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\_\_\_\_\_, 2020

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Steve Adler  
Mayor

**APPROVED:** \_\_\_\_\_  
Anne L. Morgan  
City Attorney

**ATTEST:** \_\_\_\_\_  
Jannette S. Goodall  
City Clerk

DRAFT