

ORDINANCE NO. 20200709-002

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

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

PART 1. FINDINGS. The City Council finds:

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

PART 2. DEFINITIONS.

- (A) A term defined in City Code Section 1-1-2 (*General Definitions*) has the same meaning in this ordinance.
- (B) In this ordinance, the following definitions apply:

- (1) COVID-19 means the pandemic that is the subject of the Local Disaster Declaration, dated March 6, 2020.
- (2) FACE COVERING means a covering that fits snugly over an individual's nose and mouth, such as a commercially made or homemade fabric mask, scarf, bandana, handkerchief, or shield.
- (3) GENERAL HEALTH PRE-SCREENING means:
 - (a) asking questions intended to find out whether a worker is experiencing symptoms or has been exposed to someone with COVID-19;
 - (b) reiterating public health requirements; and
 - (c) checking face coverings.
- (4) HAND SANITIZER means a liquid or gel generally used to decrease infectious agents on the hands that consists of at least 60% alcohol.
- (5) HIGH TOUCH ITEM means an object, surface, tool, equipment, or piece of electronics that is utilized by individuals multiple times a day. This includes, but is not limited to, levers, light switches, phones, remote controls, counters, tabletops, doorknobs, bathroom fixtures, toilets, keyboards, tablets, hammers and wrenches.
- (6) MAINTAINS means to own, operate, manage, or oversee a site.
- (7) MINIMUM STANDARD means a standard set forth in PART 6 of this ordinance.
- (8) PERSON IN CONTROL means a person who maintains a site.
- (9) SITE means property. A site does not include:
 - (a) property maintained by a governmental entity;
 - (b) property where medical services are provided;
 - (c) property where a childcare program operates; or
 - (d) dwelling unit where an individual resides.
- (10) VULNERABLE INDIVIDUAL means an individual who:
 - (a) is 65 years old and older; or

- (b) has certain health conditions such as heart disease, lung disease, diabetes, kidney disease, Human Immunodeficiency Virus (HIV), Acquired Immune Deficiency Syndrome (AIDS), or a weakened immune system.

(11) **WORKER** means an employee, independent contractor, subcontractor, or other similar agent present at the site.

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

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

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

PART 6. MINIMUM STANDARDS.

(A) A person in control of a site shall:

- (1) require each individual to wear a face covering except as provided in Subsection (B) below;
- (2) clean and disinfect high touch items at least twice per day;
- (3) post one or more face covering signs at or near each entrance;
- (4) limit the number of individuals who gather or stand together to 10 or less;
- (5) require at least six feet of distance between groups of individuals;
- (6) conduct a general health pre-screening of each worker every day before the worker begins his or her shift;
- (7) post one sign in English and one sign in Spanish where information for workers is customarily posted that explains the requirement to remain at least six feet apart and the requirement to wear a face covering;
- (8) keep toilets clean, sanitary and operational at all times and ensure proper disposal of waste from these facilities;
- (9) provide single use disposable paper towels and no-touch trash receptacles in restrooms and breakrooms;

- (10) mandate workers wash their hands for at least twenty seconds at the following times:
 - (a) before workers begin work;
 - (b) after workers remove gloves;
 - (c) before and after the use of shared items such as tools, electronic devices or multi-user devices;
 - (d) before and after any meal or restroom breaks; and
 - (e) after a worker's shift or work time ends; and
 - (11) for workers confirmed to have contracted COVID-19, follow all directions from Austin Public Health concerning that worker and other workers that may have come in contact with the infected worker.
- (B) Face Covering Exceptions. A face covering is not required for:
- (1) any person younger than 10 years of age;
 - (2) any person with a medical condition or disability that prevents wearing a face covering;
 - (3) any person while the person is eating or drinking, or is seated at a restaurant to eat or drink;
 - (4) any person while the person is:
 - (a) exercising outdoors or engaging in physical activity outdoors and
 - (b) maintaining a safe distance from others not in the same household;
 - (5) any person while the person is driving alone or with passengers of the same household as the driver;
 - (6) any person obtaining a service that requires temporary removal of the face covering for security surveillance, screening, or the need for specific access to the face, such as while visiting a bank or while obtaining a personal care service involving the face, but only to the extent necessary for the temporary removal;
 - (7) any person while the person is in a swimming pool, lake, or similar body of water;

- (8) any person who is voting, assisting a voter, serving as a poll watcher, or actively administering an election;
 - (9) any person who is actively providing or obtaining access to religious worship;
 - (10) any person while the person is giving a speech for a broadcast or to an audience;
 - (11) any person while temporary removal of the face covering is necessary for communication by or with a person who is hearing impaired; or
 - (12) any person who is alone, or in the presence of only members of the same household or residence, in a separate room or single space not accessible to the public, and not in an indoor common area.
- (C) Construction Sites. In addition to the minimum standards described in Subsection (A), a person in control of a construction site shall:
- (1) institute staggered shifts for sites with more than 10 active workers and post at these sites, in languages understood by all workers at the site, a notice showing the sizes and types of shift crews working there, and directions on how the person in control is limiting crew sizes and rotating shifts;
 - (2) ensure handwashing station and restroom(s) are spaced six feet apart or more from each other;
 - (3) prohibit the use of community water coolers;
 - (4) provide individual water bottles or instruct workers to bring their own;
 - (5) designate a COVID-19 safety monitor who is on-site at all times; and
 - (6) ensure that each worker who enters a jobsite has signed in and keep a list of and contact information for each worker that enters the jobsite every day for the purpose of identifying and notifying workers if they have shared a jobsite with someone who has been confirmed to have COVID-19.

PART 7. CIVIL ENFORCEMENT.

- (A) The City Council authorizes the health authority to request the city attorney to enforce this ordinance through a civil suit filed in district court for injunctive relief that:
- (1) requires specific conduct necessary to abate the public health nuisance; and

- (2) prohibits specific conduct that constitutes a public health nuisance.
- (B) The City Council approves the filing of a civil suit described in Subsection (A).

PART 8. ASSISTING HEALTH AUTHORITY.

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

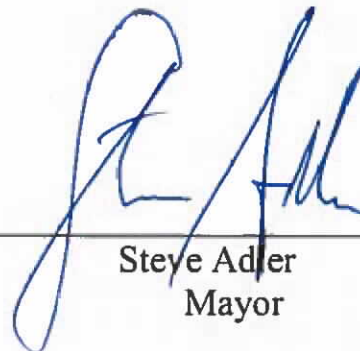
PART 9. It is declared to be the intention of the City Council that the phrases, sentences, paragraphs and sections of this ordinance are severable. If any part of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality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

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

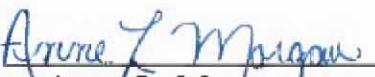
PASSED AND APPROVED

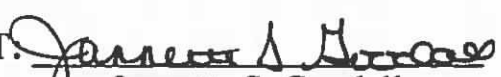
_____, July 9, 2020

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Steve Adler
Mayor

APPROVED: 
Anne L. Morgan
City Attorney

ATTEST: 
Jannette S. Goodall
City Clerk