

MODIFIED OPERATIONS FOR DINE-IN SERVICES

ORDER NO. 20201229-024

BY

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THE MAYOR OF THE CITY OF AUSTIN

WHEREAS, on March 6, 2020, I, Mayor Steve Adler, issued a Declaration of Local Disaster pursuant to Texas Government Code Chapter 418, ratified by City Council Resolution No. 20200312-074, to allow the City of Austin to take measures in response to the COVID-19 pandemic and protect the health and safety of Austin residents;

WHEREAS, on March 13, 2020, Governor Greg Abbott proclaimed a state-wide state of disaster due to the COVID-19 pandemic and has since issued numerous Executive Orders related to the pandemic, including Executive Orders GA-29 on July 2, 2020, GA-31 on September 17, 2020, and GA-32 on October 7, 2020;

WHEREAS, Governor Abbott issued Executive Order GA-32 allowing areas of the State that are not experiencing high rates of hospitalizations to further increase occupancy limits, as well as providing county judges with the option of allowing bars to reopen with an understanding that certain health protocols must continue to be enforced, including the wearing of face coverings and limiting groups to no more than 10 gatherings, subject to certain exceptions;

WHEREAS, since October, the number of new confirmed COVID-19 cases have surged across large portions of the State;

WHEREAS, GA-32 prohibits any outdoor gathering in excess of 10 people, except as specifically exempted in paragraphs 1, 3 and 4 of GA-32, or unless approved by the county judge or mayor, subject to conditions and restrictions not inconsistent with GA-32;

WHEREAS, GA-32 further prohibits bars or similar establishments that hold a permit from the Texas Alcoholic Beverage Commission ("TABC") from operating unless the County Judge opts in and allows bars and similar establishments to operate by filing the requisite form with TABC, and the Travis County Judge has not authorized bars or similar establishments to open in Travis County;

WHEREAS, as of December 28, 2020, Travis County has experienced 48,951 confirmed cases of COVID-19 and 542 deaths as a result of the disease;

WHEREAS, as of December 28, 2020, Williamson County has experienced 19,519 confirmed cases of COVID-19 and 198 deaths as a result of the disease;

WHEREAS, as of December 28, 2020, the average daily admissions at hospitals within the Austin metropolitan statistical area (MSA), as reported by the Austin-Travis County Public Health Authority, has increased by 110% since December 1, 2020, which is having a detrimental effect on MSA's health system;

MODIFIED OPERATIONS FOR DINE-IN SERVICES

WHEREAS, as of December 28, 2020, the number of hospitalizations in the MSA was 434 and ICU capacity in the MSA is at 69% of the estimated maximum availability for COVID-19 patients;

WHEREAS, the virus that causes COVID-19 is contagious and spreads through person-to-person contact, especially in group settings;

WHEREAS, wearing a face covering continuously and spacing at least six feet apart when outside of one's household is necessary to reduce the spread of COVID-19;

WHEREAS, Governor Abbott's Executive Order GA-29, Mayor Order No. 20201215-021, and the Health Authority Rules allow for an exception to face covering requirement when eating or dining in a restaurant;

WHEREAS, because the wearing of a face covering and physical distancing is not possible while individuals are seated together and dining at a restaurant or similar establishment, thereby increasing the risk of spreading COVID-19, the need to modify operations at businesses providing dine-in food and beverage service during the hours of 10:30 P.M. and 6:00 A.M. during the term of the Order is necessary to protect the community and slow the spread of the COVID-19 virus;

WHEREAS, the New Year's holiday presents a significant health risk due to the increased potential for large social gatherings at restaurants, hotels, and households;

WHEREAS, restrictions on social gatherings during the New Year's holiday is necessary to help prevent a surge in new cases and corresponding increases in hospitalizations that will overwhelm current hospital and ICU capacity;

WHEREAS, extraordinary emergency measures must be taken to try and mitigate the effects of this public health emergency and to facilitate a response to the public health threat in order to protect the health and safety of the community;

WHEREAS, pursuant to Government Code section 418.108(g), a mayor is authorized to control ingress and egress from a local disaster area, and control the movement of persons and the occupancy of premises in that disaster area; and

WHEREAS, an order that controls ingress and egress from a local disaster area, and controls the movement of persons and the occupancy of premises in that disaster area is needed to protect the health and safety of all individuals in the City of Austin, by modifying dine-in services to slow the spread of the virus.

NOW THEREFORE, I, MAYOR OF THE CITY OF AUSTIN, PURSUANT TO THE AUTHORITY VESTED BY TEXAS GOVERNMENT CODE CHAPTER 418, HEREBY ORDER, EFFECTIVE AS OF 10:30 P.M. ON DECEMBER 31, 2020, AND CONTINUING THROUGH 6:00 A.M. ON JANUARY 3, 2021 THAT IN THE CITY OF AUSTIN:

MODIFIED OPERATIONS FOR DINE-IN SERVICES

SECTION 1. That the findings and recitations set out in the preamble to this ORDER are found to be true and correct and they are hereby adopted and made a part hereof for all purposes.

SECTION 2. Modified Operations for Dine-In Food and Beverage Services. Because the wearing of a face covering and physical distancing is not possible while individuals are seated together and dining, thereby increasing the risk of spreading the COVID-19 virus, a business must end indoor and outdoor dine-in food and beverage service at 10:30 P.M. but may continue to operate after 10:30 P.M. using drive-thru, curbside pick-up, take-out, or delivery service. Dine-in food and beverage service may resume beginning at 6:00 A.M. In this section, a business does not include religious services as defined by the Governor in GA-32. Also, all dine-in food and beverage service providers are strongly encouraged to offer only drive-thru, curbside pick-up, take-out, or delivery services between 6:00 A.M. and 10:30 P.M. as recommended in Order No. 20201223-023.

SECTION 3. Criminal Offense. A violation of this Order is a violation of Austin City Code Section 2-6-24 and a criminal offense. A violation of this Order may be punishable through criminal enforcement, except as limited by state order. Peace officers, City of Austin Code Department inspectors, and the Office of the Austin Fire Marshal are hereby authorized to enforce this Order. A criminal violation of this Order is a misdemeanor punishable by a fine not to exceed \$1,000, but not by confinement. A criminal violation of this Order may be enforced by the filing of a probable cause affidavit alleging the violation with the appropriate court or by issuing a citation to the person violating that contains written notice of the time and place the person must appear before a magistrate of this state, the name and address of the person charged, and the offense charged. Enforcement of this Order is substantially reliant on self-regulation and a community commitment to public health and safety under the threat of COVID-19. If there is not widespread compliance with this Order, the City will increase enforcement efforts, as allowed by law.

SECTION 4. Savings Clause. If any provision of this Order or its application to any person or circumstance is held to be invalid, then 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.

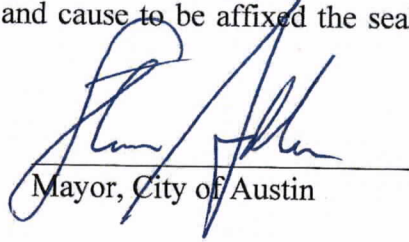
SECTION 5. Posting. The Austin Public Health Department and the City Clerk will post this Order on their websites. In addition, the owner, manager, or operator of any facility that is likely to be impacted by this Order is strongly encouraged to post a copy of this Order onsite and to provide a copy to any member of the public asking for a copy.

SECTION 6. This Order does not supersede Order 20201215-021. If this Order conflicts with Order 20201215-021, this Order shall prevail.

[SIGNATURES ON NEXT PAGE]

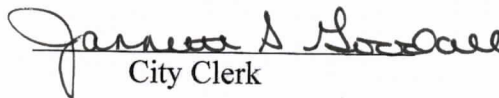
MODIFIED OPERATIONS FOR DINE-IN SERVICES

ORDERED this the 29th day of December 2020, in the City of Austin, Travis County, Texas, in witness whereof I subscribe my name and cause to be affixed the seal of the City of Austin.



Mayor, City of Austin

Filed with me, the City Clerk of the City of Austin, this 29th day of December 2020, by Mayor Steve Adler, whose signature I hereby attest under my hand and the seal of the City of Austin.



City Clerk

