ORDINANCE 2020-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH AMENDING ORDINANCE 2020-08; EXTENDING A DECLARATION OF LOCAL DISASTER; AMENDING THE RULES AND REGULATIONS FOR THE DURATION OF THE DISASTER; RESTRICTING CERTAIN ACTIVITIES; ESTABLISHING PENALTIES FOR VIOLATIONS. PROVIDING AN EFFECTIVE DATE AND DECLARING AN EMERGENCY; FIRST AND FINAL READING

WHEREAS, in December 2019 a novel coronavirus, now designated COVID-19, was detected in Wuhan City, Hubei Province, China. Symptoms of COVID-19 include fever, cough, and shortness of breath. Outcomes have ranged from mild to severe illness, and in some cases death; and

WHEREAS, on January 20, 2020, the World Health Organization (WHO) Director General declared the outbreak of COVID-19 as a Public Health Emergency of International Concern (PHEIC), advising countries to prepare for the containment, detection, isolation and case management, contact tracing and prevention of onward spread of the disease; and

WHEREAS, to date, there have been 31,548 confirmed positive cases in Texas; and

WHEREAS, on Monday, May 4, 2020, the World Health Organization (WHO) declared the crisis that is now a pandemic had infected nearly 3,524,429 people around the world and killed 247,838. 1,158,341 cases have been confirmed in the United States according to WHO.

WHEREAS, on March 13, 2020, President Trump declared a state of emergency due to COVID-19; and

WHEREAS, President Trump has invoked the Stafford Act, which will allow state and local governments to access federal disaster relief funds; and

WHEREAS, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying that COVID-19 poses an imminent threat of disaster for counties in the state of Texas; and

WHEREAS, the Texas Department of State Health Services has now determined that, as of March 19, 2020, COVID-19 represents a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code; and

WHEREAS, on March 31, 2020 Governor Abbott issued GA-14 superseding local authority invoked under Chapter 418 of the Government Code, and Chapter 81 and 122 of the Health and Safety Code where local order conflict with GA-14 or any previous order of the Governor related to the pandemic;

WHEREAS, also on April 17, 2020, Governor Abbott issued Executive Order GA-16 to replace Executive Order GA-14, and while Executive Order GA-16 generally continued through April 30, 2020, the same social-distancing restrictions and other obligations for Texans according to federal guidelines, it offered a safe, strategic first step to Open Texas, including permitting retail pick-up and delivery services; and
WHEREAS, Texas must continue to protect lives while restoring livelihoods, both of which can be achieved with the expert advice of medical professionals and business leaders; and

WHEREAS, pursuant to the Texas Disaster Act of 1975, the Mayor is designated as the Emergency Management Director of the City of Fair Oaks Ranch, and may exercise the powers granted by the governor on an appropriate local scale; and

WHEREAS, Garry Manitzas, the Mayor of the City of Fair Oaks Ranch previously determined and declared that extraordinary and immediate measures must be taken to respond quickly, prevent and alleviate the suffering of people exposed to and those infected with the virus, as well as those that could potentially be impacted by COVID-19;

WHEREAS, a declaration of local disaster and public health emergency includes the ability to reduce the possibility of exposure to disease, control the risk, promote health, compel persons to undergo additional health measures that prevent or control the spread of disease, including isolation, surveillance, quarantine, or placement of persons under public health observation, including the provision of temporary housing or emergency shelters for persons misplaced or evacuated and request assistance from the governor of state resources; and,

WHEREAS, the Fair Oaks Ranch City Council, on March 19, 2020 approved Ordinance 2020-05 extending the Mayor’s declaration of local disaster until April 16, 2020, and affirmed and amended said ordinance by the adoption of Ordinance 2020-06 on March 24, 2020, affirmed and amended said ordinance by the adoption of Ordinance 2020-08 on April 16, 2020, and hereby affirms and further amends all prior actions through the adoption of this Ordinance 2020-09.

NOW, THEREFORE, BE IT ORDIANED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:

Section 1. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 2. That the local state of disaster and public health emergency declared by Mayor Garry Manitzas for the City of Fair Oaks Ranch, Texas, pursuant to §418.108(a) of the Texas Government Code and renewed and extended to May 7, 2020 at 11:59 p.m. by City Council Ordinance 2020-08 pursuant to §418.108(b) of the Government Code, including all rules and regulation attached hereto as Exhibit A, is hereby further amended superseded and extended until May 21, 2020.

Section 3. Pursuant to §418.108(c) of the Government Code, this declaration of a local state of disaster and public health emergency shall be given prompt and general publicity and shall be filed promptly with the City Secretary.

Section 4. Pursuant to §418.108(d) of the Government Code, this declaration of a local state of disaster and public health emergency activates the City of Fair Oaks Ranch, Texas, emergency management plan.

Section 5. Pursuant to §122.006 of the Health and Safety Code, this declaration 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.

Section 7. All ordinances or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters herein except those portions deemed to conflict with GA-18, or any subsequent emergency orders of Governor Abbott.

Section 8. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 9. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 10. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 11. Should Governor Abbott lift the statewide disaster orders now in place prior to the date of expiration stated herein, this ordinance shall no longer be subject to enforcement by the City and shall be repealed by the City Council at the first legally posted meeting thereafter.

Section 12. This Ordinance shall be in force and effect from its first and final passage, and any publication required by law.

PASSED, ADOPTED, and APPROVED the 7th day of May, 2020 on one reading as an emergency measure pursuant to City Charter Section 3.006 F. 4.

AFFIRMED if necessary on this 21st day of May, 2020.
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Garry Manitzas, Mayor

ATTEST:

Christina Picioccio, City Secretary

APPROVED AS TO FORM:

Denton Navarro-Rocha Bernal & Zech, P.C., City Attorney
EXHIBIT A

LOCAL DISASTER RULES AND REGULATIONS REGARDING GOVERNING PRIVATE AND PUBLIC GATHERINGS EXTENDED BY CITY COUNCIL ORDINANCE 2020-08 IS HEREBY SUPERSEDED BY THE FOLLOWING UPDATED RESTRICTIONS TO RESPOND TO EVOLVING CIRCUMSTANCES THAT ARE DETRIMENTAL TO THE PUBLIC HEALTH. THE FOLLOWING RESTRICTION SHALL TAKE EFFECT AT 11:59 P.M. ON MAY 7, 2020 AND WILL CONTINUE THROUGH 11:59 P.M. ON MAY 21, 2020.

SECTION 1. In accordance with guidance from DSHS Commissioner Dr. Hellerstedt, and to achieve the goals established by the President to reduce the spread of COVID-19, every person in Texas shall, except where necessary to provide or obtain essential services or reopened services, minimize social gatherings and minimize in-person contact with people who are not in the same household. People over the age of 65, however, are strongly encouraged to stay at home as much as possible; to maintain appropriate distance from any member of the household who has been out of the residence in the previous 14 days; and, if leaving the home, to implement social distancing and to practice good hygiene, environmental cleanliness, and sanitation.

SECTION 2. “Essential services” shall consist of everything listed by the U.S. Department of Homeland Security (DHS) in its Guidance on the Essential Critical Infrastructure Workforce, Version 3.0 or any subsequent version, plus religious services conducted in churches, congregations, and houses of worship. Other essential services may be added to this list with the approval of the Texas Division of Emergency Management (TDEM). TDEM shall maintain an online list of essential services, as specified in this executive order and any approved additions. Requests for additions should be directed to TDEM at EssentialServices@tdem.texas.gov or by visiting the TDEM website at www.tdem.texas.gov/essentialservices.

SECTION 3. “Reopened services” shall consist of the following to the extent they are not already “essential services:”

1. Retail services that may be provided through pickup, delivery by mail, or delivery to the customer’s doorstep.

2. Starting at 11:59 P.M. on Thursday, April 30, 2020:
   a) In-store retail services, for retail establishments that operate at up to 25 percent of the total listed occupancy of the retail establishment.
   b) Dine-in restaurant services, for restaurants that operate at up to 25 percent of the total listed occupancy of the restaurant; provided, however, that:
      (i) this applies only to restaurants that have less than 51 percent of their gross receipts from the sale of alcoholic beverages and are therefore not required to post the 51 percent sign required by Texas law as determined by the Texas Alcoholic Beverage Commission, and
      (ii) valet services are prohibited except for vehicles with placards or plates for disabled parking.
   c) Movie theaters that operate at up to 25 percent of the total listed occupancy of any individual theater for any screening.
d) Shopping malls that operate at up to 25 percent of the total listed occupancy of the shopping mall; provided, however, that within shopping malls, the food court dining areas, play areas, and interactive displays and settings must remain closed.

e) Museums and libraries that operate at up to 25 percent of the total listed occupancy; provided, however, that:
   (i) local public museums and local public libraries may so operate only if permitted by the local government, and
   (ii) any components of museums or libraries that have interactive functions or exhibits, including child play areas, must remain closed.

g) Services provided by an individual working alone in an office.

h) Golf course operations.

i) Local government operations, including county and municipal governmental operations relating to permitting, recordation, and document-filing services, as determined by the local government.

j) Such additional services as may be enumerated by future executive orders or proclamations by the governor.

The conditions and limitations set forth above for reopened services shall not apply to essential services. Notwithstanding anything herein to the contrary, the governor may by proclamation identify any county or counties in which reopened services are thereafter prohibited, in the governor’s sole discretion, based on the governor’s determination in consultation with medical professionals that only essential services should be permitted in the county, including based on factors such as an increase in the transmission of COVID-19 or in the amount of COVID-19-related hospitalizations or fatalities.

In providing or obtaining essential services or reopened services, people and businesses should follow the minimum standard health protocols recommended by DSHS, found at www.dshs.texas.gov/coronavirus, and should implement social distancing, work from home if possible, and practice good hygiene, environmental cleanliness, and sanitation. This includes also following, to the extent not inconsistent with the DSHS minimum standards, the Guidelines from the President and the CDC, as well as other CDC recommendations. **Individuals are encouraged to wear appropriate face coverings, but there shall not be a civil or criminal penalty for failure to wear a face covering.**


**SECTION 4:** Religious services should be conducted in accordance with the joint guidance issued and updated by the attorney general and governor.

**SECTION 5:** All public park equipment and fixtures including all playscapes are closed for public use for the duration of this order. Parks are open to the public during regular hours, but their use is limited exercise activity and Social Distancing Requirements must be followed at all times.

**SECTION 6:** In accordance with the Guidelines from the President and the CDC, people shall not visit nursing homes, state supported living centers, assisted living facilities, or long-term care
facilities unless to provide critical assistance as determined through guidance from the Texas Health and Human Services Commission (HHSC). Nursing homes, state supported living centers, assisted living facilities, and long-term care facilities should follow infection control policies and practices set forth by the HHSC, including minimizing the movement of staff between facilities whenever possible.

SECTION 7. People shall avoid visiting bars, gyms, public swimming pools, interactive amusement venues such as bowling alleys and video arcades, massage establishments, tattoo studios, piercing studios, or cosmetology salons. The use of drive-thru, pickup, or delivery options for food and drinks remains allowed and highly encouraged throughout the limited duration of this executive order.

SECTION 8. This Ordinance does not prohibit people from accessing essential or reopened services or engaging in essential daily activities, such as going to the grocery store or gas station, providing or obtaining other essential or reopened services, visiting parks, hunting or fishing, or engaging in physical activity like jogging, bicycling, or other outdoor sports, so long as the necessary precautions are maintained to reduce the transmission of COVID-19 and to minimize in-person contact with people who are not in the same household.

SECTION 9. All public and private gatherings of any number of people occurring outside a single household or living unit are prohibited, except for the limited purposes permitted by this Emergency Order. Pursuant to current guidance from the CDC, any gathering of more than ten people is prohibited unless exempted by this Emergency Order. Nothing in this Emergency Order prohibits the gathering of members of a household or residence.

All home solicitation shall cease, and any existing home solicitation permits are hereby terminated.

SECTION 10. Pursuant to Section 418.108(h) of the Texas Government Code, this Order shall control the movement of persons and the occupancy of premises in Fair Oaks Ranch, Texas, and to the extent of a conflict between this Order and the orders of the Governor or a county judge of Bexar, Comal or Kendall County, those order would prevail to the extent of any conflict. However, nothing herein should be read to prohibit the City from enacting and enforcing orders that are more strict than the State or County where permitted by the Constitution as a home-rule municipality of the State of Texas and such authority is explicitly reserved herein.

SECTION 11: In accordance with the Guidelines from the President and the CDC, and by order of the Governor, schools shall remain temporarily closed to in-person classroom attendance by students and shall not recommence before the end of the 2019-2020 school year. Public education teachers and staff are encouraged to continue to work remotely from home if possible, but may return to schools to conduct remote video instruction, as well as perform administrative duties, under the strict terms required by the Texas Education Agency. Private schools and institutions of higher education should establish similar terms to allow teachers and staff to return to schools to conduct remote video instruction and perform administrative duties when it is not possible to do so remotely from home.
SECTION 12. Any peace officer or other person with lawful authority is hereby authorized to enforce the provisions of this local Ordinance in accordance with Section 1.01.009 of the City Code or Ordinances. A fine or penalty for the violation of a rule, ordinance or police regulation that governs public health may not exceed two-thousand dollars ($2,000.00).

SECTION 13. Any peace officer or other person with lawful authority is further authorized to enforce the provisions of this Ordinance or the orders of the Governor in accordance with the authority granted under the Texas Disaster Act of 1975, as applicable, which allows a fine not to exceed one-thousand dollars ($1000.00) and confinement not to exceed 180 days pursuant to Government Code 418.173.

SECTION 14. The Mayor, Local Health Authority and Director of Health may update restrictions set out in this Exhibit as necessary to respond to the evolving circumstances of this outbreak during the duration of the Mayor's Declaration of Public Health Emergency and any extension by the Fair Oaks Ranch City Council.