

ORDINANCE NO. 20201203-043

AN ORDINANCE REAUTHORIZING THE HEALTH AUTHORITY TO ADOPT ADMINISTRATIVE RULES TO PROTECT INDIVIDUALS FROM COVID-19; AMENDING THE EXPIRATION DATE IN ORDINANCE NO. 20200709-003; AND CREATING AN OFFENSE AND PENALTY.

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

PART 1. FINDINGS. The council finds:

- (1) 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
- (2) 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
- (3) Section 122.006 of the Texas Health and Safety Code states that a home-rule municipality may adopt rules to protect the health of individuals in the municipality; and
- (4) Section 121.003 of the Texas Health and Safety Code states that a home-rule municipality may enforce any law reasonably necessary to protect the public health; and
- (5) The Austin City Charter, Article I, Section 3 (*General Powers*) establishes the City as a home-rule municipality; and
- (6) On July 9, 2020, council adopted Ordinance No. 20200709-003 that authorized the health authority to adopt rules reasonably necessary to protect the public health; and
- (7) Because COVID-19 remains a public health threat, it is necessary to reauthorize the health authority to adopt rules reasonably necessary to protect public health; and

- (8) Because the rules reasonably necessary to protect public health against COVID-19 evolve as the number of cases and resources to fight COVID-19 change and medical professionals learn new information about COVID-19, the rules adoption process established in City Code Chapter 1-2 (*Adoption of Rules*) must be waived.

PART 2. DEFINITIONS.

- (1) A term defined in City Code Section 1-1-2 (*General Definitions*) has the same meaning in this ordinance.
- (2) HEALTH AUTHORITY RULE means an administrative rule adopted in accordance with Part 3 of this ordinance.

PART 3. PROTECTIONS FOR THE HEALTH OF PERSONS.

- (A) To protect the health of individuals within the City, the health authority may adopt administrative rules reasonably necessary to protect the health of persons within the City, including mitigating and reducing the transmission of COVID-19.
- (B) A rule adopted under this ordinance must be accompanied by a notice that is signed by the city manager, health authority, and city attorney that includes:
 - (1) the text of the rule;
 - (2) the health authority's statement why the rule is necessary under this ordinance;
 - (3) a reference to this ordinance; and
 - (4) a certification that the rule was reviewed by the city attorney and is authorized by this ordinance.
- (C) A rule adopted under this ordinance is not effective until the notice and the rule are posted as set forth in Subsection (D).
- (D) The city clerk shall:
 - (1) post the notice and the rule on the City website used for notice of public meetings; and

- (2) record on the notice the date and time that the notice was posted.
- (E) Unless a health authority rule is withdrawn, superseded, or the health authority provides an earlier expiration date, a rule adopted under this ordinance expires on the 121st day after the date on which it becomes effective.
- (F) The council waives the requirements in Chapter 1-2 (*Adoption of Rules*).
- (G) The city manager may designate one or more city departments to assist the health authority with administering, implementing, and enforcing this ordinance.

PART 4. OFFENSE AND PENALTY.

- (A) A person who knowingly violates a health authority rule commits an offense.
- (B) Each day that a violation occurs is a separate offense.
- (C) Each offense is punishable by a fine not to exceed \$2,000.

PART 5. The council amends Ordinance No. 20200709-003 to amend the expiration to read as follows:

PART 5. This ordinance expires on December 15 [~~31~~], 2020.

PART 6. This ordinance expires on December 31, 2021.

PART 7. This ordinance takes effect on December 15, 2020.

PASSED AND APPROVED

_____ December 3 _____, 2020

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Steve Adler
Mayor

APPROVED: Anne L. Morgan
Anne L. Morgan
City Attorney *by J. Thomas*

ATTEST: Jannette S. Goodall
Jannette S. Goodall
City Clerk