

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, DECLARING A LOCAL STATE OF DISASTER DUE TO A PUBLIC HEALTH EMERGENCY AND ENACTING REGULATIONS RELATED THERETO; MAKING FINDINGS; REPEALING ORDINANCE NO. 2020-18; PROVIDING FOR SEVERABILITY, SAVINGS AND REPEALING CLAUSES; PROVIDING FOR PENALTIES; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, beginning in or about December 2019, a novel coronavirus, now designated COVID-19, has spread through the world and has now been declared a global pandemic by the World Health Organization; and

WHEREAS, symptoms of COVID-19 include fever, coughing, and shortness of breath and, in some cases, the virus has caused death; and

WHEREAS, the Town of Prosper is taking extraordinary measures to prevent the spread of this potentially devastating disease in our community; and

WHEREAS, the Town of Prosper has established emergency protective measures, mitigation procedures, and emergency response plans for this type of health emergency; and

WHEREAS, on or about March 13, 2020, Texas Governor Greg Abbott declared a state of disaster in all Texas counties, and thereafter both Collin County Judge Chris Hill and Denton County Judge Andy Eads have declared a local state of disaster due to a public health emergency; and

WHEREAS, on or about Thursday, March 19, 2020, Texas Governor Greg Abbott issued Executive Order GA-08 providing further guidance in addressing COVID-19 preparedness and mitigation; and

WHEREAS, on or about Monday, March 16, 2020, Mayor Ray Smith issued a Declaration of Local State of Disaster Due to Public Health Emergency; and

WHEREAS, on or about Friday, March 20, 2020, Mayor Ray Smith extended and continued the March 16 Declaration for another seven (7) day period; however, such Extension of Declaration provided that "in the event the Town Council of the Town of Prosper shall declare a local state of disaster, this Extension of Declaration shall expire on its own terms upon the effective date of any Declaration of the Town Council of the Town of Prosper"; and

WHEREAS, on or about Tuesday, March 24, 2020, the Town Council adopted Ordinance No. 2020-18 declaring a local state of disaster, and it is the desire of the Town Council to repeal said ordinance; and

WHEREAS, on or about Sunday, March 29, 2020, Collin County Judge Chris Hill posted, at https://www.collincountytx.gov/healthcare_services/Pages/news.aspx, that Collin County cities "may have additional restrictions" to address COVID-19 other than those contained in Judge Hill's March 24 order; and

WHEREAS, on or about Tuesday, March 31, 2020, Texas Governor Greg Abbott issued Executive Order GA-14, repealing Executive Order GA-08, and addressing and providing further for the continuity of essential services and activities during the COVID-19 disaster; and

WHEREAS, this Ordinance is adopted pursuant to the authority contained in the Texas Disaster Act of 1975, Section 122.006 of the Texas Health and Safety Code, and the home-rule authority contained in article XI, section 5 of the Texas Constitution; and

WHEREAS, nothing in this Ordinance shall prohibit the Mayor from issuing a subsequent Declaration in the event matters not addressed by this Ordinance arise and require immediate action.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THAT:

SECTION 1

All of the above findings are hereby found to be true and correct and are hereby incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2

Ordinance No. 2020-18, approved by the Town Council on Tuesday, March 24, 2020, is hereby repealed in its entirety, simultaneous with the effective date of this Ordinance.

SECTION 3

A local state of disaster due to public health emergency is hereby declared for the Town of Prosper, Texas, pursuant to Section 418.108(a) of the Texas Government Code.

SECTION 4

Pursuant to Section 418.108(b) of the Texas Government Code, this state of disaster due to public health emergency shall continue from 12:01 a.m., Thursday, April 2, 2020, through April 30, 2020, unless the Town Council of the Town of Prosper, Texas, repeals or otherwise amends this Ordinance prior thereto.

SECTION 5

Pursuant to Section 418.108(c) of the Texas Government Code, this Ordinance declaring a local state of disaster due to public health emergency shall be given prompt and general publicity and shall be filed promptly with the Town Secretary's Office.

SECTION 6

Pursuant to Section 418.108(d) of the Government Code, this Ordinance declaring a local state of disaster has resulted in the following:

- The Town's Emergency Operations Center has been partially activated, and conditions are being constantly monitored by emergency personnel.

- All Town-sponsored programs, activities and classes are suspended through April 30, 2020.
- The Prosper Community Library and the 407 Rec Center are closed through April 30, 2020.
- All Town sports fields, playgrounds, and outdoor workout equipment are closed through April 30, 2020.
- Prosper Municipal Court is delaying all Court proceedings until May 1, 2020.
- All closures and cancellations will be reassessed and modified as conditions change.
- Town Council and Planning and Zoning Commission meetings will continue to be held; however, non-essential Board and Commission meetings are postponed until further notice.
- All other Town offices will remain open during normal operating hours.

SECTION 7

Closures and cancellations referenced in this Ordinance may be extended, modified or revoked until the threat posed by COVID-19 has passed, as determined by the Town Manager in consultation with the Mayor.

SECTION 8

The Town Manager is granted the authority to direct non-emergency Town personnel to work from home or to otherwise telecommute, as may be required, to mitigate community spread of COVID-19.

SECTION 9

Beginning at 12:01 a.m. on Thursday, April 2, 2020:

(1) All individuals currently living within Prosper are ordered to stay at home or their current place of residence. For the purposes of this Ordinance, residences include hotels, motels, shared rentals, and similar facilities. To the extent individuals are using shared or outdoor spaces, they must at all times as reasonably as possible maintain social distancing of at least six feet (6') from any other person when they are outside their residence. All persons may leave their residences only for Essential Activities, or to provide or perform Essential Governmental Functions, or to operate Essential Businesses, all as defined in this Section 9.

(2) All businesses operating within Prosper, except Essential Businesses as defined in below in this Section 9, are required to cease all activities at facilities located within Prosper. For clarity, businesses may continue operations consisting exclusively of employees or contractors performing activities at their own residences (*i.e.*, working from home). To the

greatest extent possible, all Essential Businesses shall comply with the Social Distancing Guidelines set forth by the CDC, including maintaining six-foot (6') social distancing for both employees and the general public.

(3) All public or private gatherings of any number of people occurring outside a single household or living unit are prohibited, except as otherwise provided herein. Nothing in this Ordinance prohibits the gathering of members of a household or living unit (an apartment or house for use by one family).

(4) Restaurants and beverage bars with or without drive-in or drive-through services and microbreweries, micro-distilleries, or wineries may only provide take out, delivery, or drive-through services as allowed by law.

(5) Pursuant to Executive Order GA-14, if religious and worship services cannot be conducted from home or through remote services, they shall be conducted consistent with the Social Distancing Guidelines as set forth by presidential guidelines and the CDC, including six-foot (6') social distancing. Funerals are allowed with appropriate social distancing.

(6) All elective medical, surgical and dental procedures are prohibited anywhere in Prosper. Hospitals, ambulatory surgery centers, dental offices and other medical facilities are directed to identify procedures that are deemed "elective" by assessing which procedures can be postponed or canceled based on patient risk considering the emergency need for the redirection of resources to COVID-19 response.

A. Definitions:

(1) For purposes of this Ordinance, individuals may leave their residence only to perform any of the following "Essential Activities":

- a. To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members including pets and livestock (for example, obtaining medical supplies or medication, visiting a health care professional or obtaining supplies needed to work from home).
- b. To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others (for example, food, pet supply, and any other household consumer products, and products necessary to maintain the safety, sanitation, and essential operation of residences).
- c. To engage in outdoor activity, provided the individuals comply with social distancing requirements of six feet (6'), except as family unit. Examples of outdoor activities include walking, biking, hiking or running. Operators of golf courses and equestrian stables shall clean hard surfaces in accordance with CDC guidelines, minimize "touch points," comply with all social distancing requirements and take appropriate actions to reduce

the spread of COVID-19. Use of public and homeowners' association-owned playground equipment, amenity centers, community pools and other HOA facilities is prohibited.

- d. To perform work providing essential products and services at an Essential Business or to otherwise carry out activities specifically permitted in this Ordinance.
 - e. To care for a family member or pet in another household.
- (2) For purposes of this Ordinance, "Essential Businesses" means:
- a. **Essential Healthcare Operations.** Healthcare operations, including hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, mental health providers, substance abuse service providers, blood banks, medical research, laboratory services, or any related and/or ancillary healthcare services. Home-based and residential-based care for seniors, adults, or children are also considered healthcare operations. Healthcare operations also includes veterinary care and all health and welfare services provided to animals. This exemption shall be viewed broadly to avoid any impacts to the delivery of healthcare. Healthcare operations do not include fitness and exercise gyms and similar facilities. Healthcare operations do not include elective medical, surgical and dental procedures as established in accordance with Subsection (6), above.
 - b. **Essential Government Functions.** All services provided by local governments needed to ensure the continuing operation of the government agencies to provide for the health, safety and welfare of the public. Further, nothing in this Ordinance shall prohibit any individual from performing or accessing "Essential Government Functions." All Essential Government Functions shall be performed in compliance with social distancing requirements of six feet (6'), to the extent possible. State and federal government agencies shall follow state or federal guidance to the extent possible.
 - c. **Education.** The superintendent, head of school or CEO of a school district, charter school or private school shall designate school personnel who are essential to the operation and support of distance-learning for students, preparation and distribution of meals to students, and maintenance/cleaning of facilities during the time period covered by this local state of disaster.
 - d. **Essential Critical Infrastructure.** Work necessary to the operations and maintenance of the critical infrastructure sectors as identified by the National Cybersecurity and Infrastructure Agency's (CISA) March 28, 2020, "Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National

Resilience in COVID-19 Response,” as may be amended from time to time and which amendments are hereby incorporated by reference, a copy of which can be found online at https://www.cisa.gov/sites/default/files/publications/CISA_Guidance_on_the_Essential_Critical_Infrastructure_Workforce_508C_0.pdf, including public works construction, residential and commercial construction, airport operations, water, sewer, gas, electrical, oil refining, roads and highways, public transportation, solid waste collection and removal, Internet, and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services), banks, financial institutions, pawn shops, safety and security-related services, retail firearm sales, defense and national security-related operations, elimination of hazardous materials, essential manufacturing operations provided that they carry out those services or that work in compliance with social distancing requirements of six feet (6’), to the extent possible. Essential Businesses providing essential infrastructure should implement screening precautions to protect employees and all activity shall be performed in compliance with social distancing guidelines as set forth by the CDC.

- e. **Essential Retail.** Food service and household providers, including grocery stores, warehouse stores, big-box stores, liquor stores, gas stations and convenience stores, and farmers’ markets. Food gathering, including farming, hunting, fishing and livestock to the extent allowed by law. Businesses that ship or deliver groceries, food, goods or services directly to residences. Restaurants and other facilities that prepare and serve food, but only for delivery, carry out or drive thru. Schools and other entities that typically provide free services to students or members of the public on a pick-up and take-away basis only. The restriction of delivery or carry out does not apply to cafes and restaurants located within hospitals and medical facilities. Laundromats, dry cleaners, and laundry service providers. Gas stations, auto-supply, auto and bicycle repair shops, construction supply stores and hardware stores. Businesses that supply products needed for people to work from home.
- f. **Providers of Basic Necessities to Economically Disadvantaged Populations.** Businesses, including nonprofit organizations, that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals.
- g. **Essential Services Necessary to Maintain Essential Operations of Residences or Other Essential Businesses.** Trash and recycling collection, processing and disposal, mail and shipping services, building cleaning, maintenance and security, warehouse/distribution and fulfillment, storage for essential businesses, funeral homes, crematoriums and cemeteries.

Plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operations of residences and Essential Businesses. Professional services, such as legal or accounting services, property management, and real estate services, RV sales and services for housing when necessary to assist in compliance with legally mandated activities. Businesses that supply other Essential Businesses with support or supplies needed to operate.

- h. **Automotive Sales.** Automobile dealerships may continue online sales; showrooms must remain closed. Appointments for necessary paperwork may be arranged and conducted while practicing social distancing. Virtual test drives shall be used in lieu of traditional test drives.
- i. **News Media.** Newspapers, television, radio, and other media services.
- j. **Childcare Services.** Childcare facilities providing services that enable employees exempted in this Ordinance to work as permitted.

(3) Any manufacturer who retools so that a substantial part of its business is for the purpose of manufacturing and producing ventilators may apply for an “Essential Business” exemption under this Ordinance.

(4) Grocery stores, supermarkets, warehouse stores, hospitals, and medical facilities are experiencing high levels of demand for a large number of products, requiring more deliveries from manufacturers and distribution centers to serve their customers. Due to the need to deliver products as quickly and efficiently as possible during this critical timeframe, this Ordinance hereby suspends all delivery hour restrictions for transport to or from any entity involved in the selling or distribution of food products, medicine, or medical supplies in Prosper for the next sixty (60) days from the effective date of this Ordinance.

(5) Retail suppliers shall use common-sense rationing of household products and groceries that are in limited supply.

(6) If someone in a household has tested positive for coronavirus, the household is ordered to isolate at home. Members of the household cannot go to work, school, or any other community function until cleared by a medical professional.

(7) Nursing homes, retirement, and long-term care facilities are instructed by this Ordinance to prohibit non-essential visitors from accessing their facilities unless to provide critical assistance or for end-of-life visitation.

(8) Public and private schools and institutions of higher education are instructed by this Ordinance to review and update their emergency management plans at least 72 hours before students return to a classroom setting.

SECTION 10

This Ordinance hereby authorizes the Town to take any actions necessary to promote health and suppress the virus, including the quarantine of persons and occupied structures, examining and regulating hospitals, regulating ingress and egress from the Town, regulating ingress and egress to occupied structures, and insuring compliance for those who do not comply with the Town's rules, pursuant to Section 122.006 of the Texas Health and Safety Code.

SECTION 11

This Ordinance hereby authorizes the use of all lawfully available enforcement tools.

SECTION 12

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The Town Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 13

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 14

This Ordinance is adopted in compliance with the Town's Emergency Management Plan and Section 418.173 of the Texas Government Code. Therefore, any person, firm or corporation violating any of the provisions of this Ordinance commits an offense, punishable by a fine up to \$1,000.00, or confinement in jail for a term not to exceed 180 days, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 15

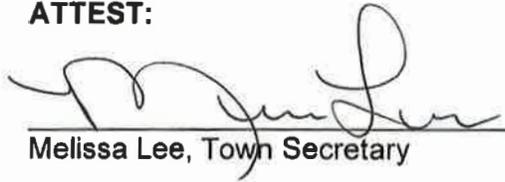
This Ordinance shall become effective from and after its passage and publication.

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 1ST DAY OF APRIL, 2020.



Ray Smith, Mayor

ATTEST:



Melissa Lee, Town Secretary

APPROVED AS TO FORM AND LEGALITY:



Terrence S. Welch, Town Attorney

