

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, EXTENDING A LOCAL STATE OF DISASTER DUE TO A PUBLIC HEALTH EMERGENCY AND INCORPORATING BY REFERENCE THE APPLICABLE REGULATIONS CONTAINED IN GOVERNOR ABBOTT'S EXECUTIVE ORDER(S); MAKING FINDINGS; REPEALING ORDINANCE NO. 2020-26; 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24, 2020, the Town Council adopted Ordinance No. 2020-18 declaring a local state of disaster, which subsequently was repealed by the Town Council; and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, on or about Wednesday, April 1, 2020, the Town Council adopted Ordinance No. 2020-26 extending the local state of disaster through April 30, 2020, and it now is the desire of the Town Council to repeal said ordinance effective as of the date of expiration of the local state of disaster referenced therein; and

WHEREAS, on or about Monday, April 27, 2020, Texas Governor Greg Abbott issued another Executive Order, addressing and providing, among others, for the continuity of essential services and activities during the COVID-19 disaster as well as permitting the limited reopening of certain non-essential businesses; and

WHEREAS, the Town Council seeks to adopt an ordinance that will extend the local state of disaster, incorporate by reference the various rules and regulations contained in Governor Abbott's applicable Executive Order(s), and be coterminous with said Executive Orders; 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 or applicable Executive Order(s) 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. 2020-26, approved by the Town Council on Wednesday, April 1, 2020, is hereby repealed in its entirety, simultaneous with the effective time and date of this Ordinance.

SECTION 3

A local state of disaster due to public health emergency is hereby declared and extended 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 the time of expiration of Ordinance No. 2020-26, and thereafter shall expire on the date in which Texas Governor Greg Abbott repeals or otherwise concludes the state of disaster for the State of Texas, as same may relate to both Collin County and Denton County.

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

The Town Manager is granted the continuing 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. Closures of Town facilities, and the cancellation of Town-sponsored events, programs, and activities may be modified or revoked at the discretion of the Town Manager.

SECTION 7

The Town hereby incorporates by reference, in its entirety, all applicable provisions of Governor Abbott's Executive Orders to date, including the rules and regulations contained therein, with said rules and regulations terminating at the expiration of said Executive Order(s), as determined by the Governor, as same may relate to both Collin County and Denton County.

SECTION 8

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 aforementioned Executive Order(s) of the Governor.

SECTION 9

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

SECTION 10

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 11

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 12

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, and/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 13


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 28TH DAY OF APRIL, 2020.



Ray Smith, Mayor

ATTEST:



Melissa Lee, Town Secretary

APPROVED AS TO FORM AND LEGALITY:



Terrence S. Welch, Town Attorney