ORDINANCE NO. 2020-02

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MIAMI, OKLAHOMA CREATING AN EMERGENCY, TEMPORARY, NON-CODIFIED ORDINANCE; DECLARING AN EMERGENCY RELATED TO THE IMPELLING THREAT OF COVID-19 TO THE PEOPLE OF THE CITY OF MIAMI, OKLAHOMA, POSING TEMPORARY RESTRICTIONS WITHIN THE CITY; SUSPENDING VARIOUS UTILITY RATE HIKES; AUTHORIZING EMERGENCY PURCHASES AND CONTRACTS; PROHIBITING EVENTS OR GATHERINGS ON CITY-OWNED PROPERTY; RECOMMENDING LIMITATIONS ON OTHER SOCIAL GATHERINGS; PROVIDING A TERMINATION DATE; PROVIDING SEVERABILITY; PROVIDING FOR CONFLICTING PROVISIONS; AND ESTABLISHING AN EMERGENCY.

WHEREAS, Article 2, Section 6, subparagraph 2 of the City Charter provides that the Council may enact municipal legislation subject to limitations as may now or hereafter be imposed by the Oklahoma Constitution and law; and

WHEREAS, on March 11, 2020 the World Health Organization (WHO) declared the corona virus COVID-19 disease to be a pandemic; and

WHEREAS, on March 13, 2020 the President of the United States declared a National Emergency; due to the COVID-19 Virus pandemic; and

WHEREAS, on March 15, 2020, the Governor of the State of Oklahoma has declared an emergency caused by the impending threat of COVID-19 to the people of this State and the public's peace, health and safety; and

WHEREAS, it is the continuing duty of the City Council to protect the health and safety of the City and its inhabitants, to preserve the peace, and to provide civil defense and emergency functions; and

WHEREAS, the Oklahoma Emergency Management Act of 2003, 63 O.S. §§683.1, et seq., authorizes the City Council, in the interest of public safety and welfare to make such other orders as are imminently necessary for the protection of life and property; and

WHEREAS, due to the potential for rapid community spread and transmission of the COVID-19 virus, immediate attention is required to protect public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MIAMI, OKLAHOMA:

Section 1 - New Ordinance

LIMITING AND CLOSING CERTAIN COMMERCIAL BUSINESSES

There is hereby declared a health disaster and it is therefore immediately ORDERED, as follows:

1. Restaurants, food courts, cafes, coffeehouses, and other places of public accommodation offering food and beverage are closed for dine-in customers and guests and for on-premises consumption, are restricted and limited to curbside, drive-thru, takeout and delivery services, excluding institutional or in-house food cafeteria services that serve residents, employees, and clients of businesses, child care facilities, hospitals, and long-term care facilities.

2. The following commercial establishments and places of public accommodation shall be and are hereby closed to ingress, egress, use, and occupancy by members of the public:
a. Bars, taverns, brew pubs, breweries, microbreweries, distilleries, wineries, tasting rooms, clubs, and other places of public accommodation offering alcoholic beverages for on-premises consumption.

b. Hookah bars, cigar bars, and vaping lounges offering their products for on-premises consumption.

c. Theaters, cinemas, indoor and outdoor performance venues, and museums.

d. Hair salons, barber shops, nail salons, day spas and tanning salons.

e. Gymnasiums, fitness centers, recreation centers, indoor sports facilities, indoor exercise facilities, exercise studios, bowling alleys, dance studios, karate and other martial arts studios and spas.

f. Amusement parks, arcades, bingo halls, bowling alleys, indoor climbing facilities, skating rinks, trampoline parks, and other similar recreational or entertainment facilities.

3. This Ordinance does not prohibit an employee, contractor, vendor, or supplier of a place of public accommodation from entering, exiting, using, or occupying a place of public accommodation in their professional capacity.

4. The restrictions imposed by this Ordinance do not apply to any of the following:

a. Places of public accommodation that offer food and beverage for off-premises consumption, including take-out and/or delivery dining, grocery stores, markets, convenience stores, pharmacies, drug stores, and food pantries, other than those portions of the place of public accommodation subject to the requirements of this section;

b. Health care facilities, child care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities; and

c. Crisis shelters, soup kitchens, or similar institutions.

and all zoning and parking provisions and restrictions of the Code or Ordinances are hereby waived in relation to those properties covered by subsections (b) and (c) hereof.

5. For purposes of this Ordinance, "place of public accommodation" means a business, or an educational, refreshment, entertainment, or recreation facility, or an institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

6. This Ordinance does not alter any of the obligations under law of an employer affected by this Ordinance to its employees or to the employees of another employer.

Section 2 - Amendment

SUSPENSION OF VARIOUS UTILITY CHARGES

1. The utility rate increases set to begin as of April 1, 2020, as set out in Chapter 24, Section 64 (Ordinance 2018-04) are hereby suspended until June 3, 2020, and such Section is amended to reflect same.

2. Demand changes from winter to summer rates set to begin as of May 1, 2020, as set out in Chapter 24, Section 64, Billing Tables (Ordinance 2018-04) are hereby suspended until June 3, 2020, and such Section is amended to reflect same.

3. Utility penalties assessed as set out in Chapter 24, Section 32 (Ordinance 1561) are hereby suspended until June 3, 2020, and all penalties assessed on utility bills that were due from
March 17, 2020, until the enactment of this Ordinance shall be reversed and not charged. Such Section is amended to reflect same.

Section 3 - New Ordinance

EMERGENCY PURCHASES

The city manager and/or designee(s) shall be authorized to make emergency purchases of goods and services and enter into contracts as deemed necessary to protect the health, safety and welfare of the public and to protect public or private property from further harm or damage. Emergency purchases of goods and services shall not be subject to competitive bidding or other purchasing requirements established by the Miami Code of Ordinances. All such purchases and contracts pursuant to the section may be entered into by the city manager and/or designee(s) without the prior approval of the City Council or the Miami Special Utility Authority, although the city manager, acting as such and/or as the trust manager for the Miami Special Utilities Authority, shall make a full and complete disclosure of such at the next ensuing public meeting of the City Council or the Miami Special Utilities Authority, whichever is appropriate.

Section 4 - New Ordinance

LIMITATIONS ON GATHERINGS

All events or gatherings of more than ten (10) people, in or on a City-owned or City-operated facility or property, are hereby banned, until this Ordinance is nullified. Any violation of this provision shall be deemed a trespass under Section 13-49 of the Code of Ordinances.

Section 5 - New Ordinance

ADDITIONAL POWERS TO MAYOR

During the term of this Ordinance and the existence of this emergency, the Mayor is hereby granted such other and further powers and authorities as he deems necessary and appropriate, whether through Executive Order or Proclamation, to address other issues that may arise that are caused by the COVID 19 pandemic, as may be suggested or recommended by any appropriate health care entity. Provided, however, the Mayor shall make a full and complete disclosure of such actions at the next ensuing public meeting of the City Council or the Miami Special Utilities Authority, whichever is appropriate.

Section 6 - Recommendation

All in-person gatherings for social, spiritual, educational and recreational purposes, including but not limited to community, civic, public, leisure, faith-based, or sporting events, concerts, festivals, conventions, fund-raising and similar activities are strongly discouraged until this Ordinance is nullified and it is strongly recommended that all CDC recommendations be strictly followed by all citizens and visitors in the City of Miami.

Section 7 - Termination of Ordinance

Unless previously extended by specific action of the City Council, all provisions of this Ordinance, except for Section 2 hereof, shall terminate as of 12:00 p.m. (midnight) on April 15, 2020.

Section 8 - Codification

Because this Emergency Ordinance is temporary in nature, it shall not be codified in the Code of Ordinances.
Section 9 - Severability

If any provision, paragraph, word, section or article of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.

Section 10 - Conflicting Provisions

If any provision, paragraph, word, section or article of this Ordinance conflicts with the provisions of any other Ordinance, then the provisions of this Ordinance shall be deemed to have superseded all conflicting provisions previously entered into effect.

Section 11 - Declaration of Emergency

For the immediate preservation of the public peace, health and safety, an emergency is hereby declared to exist whereby this Ordinance shall take at 11:59 p.m., March 21, 2020 (today), in order to give affected businesses time to close. The question of emergency must be ruled upon separately and approved by the affirmative vote of at least ⅔ of ALL the members of the City Council (4 affirmative votes required). As required by 11 O.S. §14-103, the reason for the emergency measure is in the public health and economic interest to enact this Ordinance immediately.

PASSED AND APPROVED this 21st day of March, 2020 at 11:59 a.m.

Rudy Schultz, Mayor

ATTEST:

Melissa Moore, City Clerk

APPROVED:

Ben Loring, City Attorney