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ORDINANCE NO. 1182

AN ORDINANCE AMENDING CHAPTER 32 OF THE NICHOLS HILLS CITY CODE CONCERNING DETERMINATION OF A STATE OF EMERGENCY AND ENACTING REGULATIONS TO CONTROL THE COVID-19 VIRUS; REPEALING ALL CONFLICTING ORDINANCES OR PARTS OF ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

EMERGENCY ORDINANCE

**WHEREAS**, the United States is experiencing an outbreak of Novel Coronavirus-2019 also known as COVID-19 (“COVID-19”, COVID-19 Virus” or “Virus”); and

**WHEREAS**, on March 11, 2020, the World Health Organization characterized the COVID-19 outbreak as a pandemic; and

**WHEREAS**, on March 13, 2020, the President of the United States declared a National Emergency because of the COVID-19 pandemic and which declaration is still in effect today; and

**WHEREAS**, on March 15, 2020, the Governor of Oklahoma declared a State of Emergency because of the COVID-19 pandemic and which declaration is still in effect today; and

**WHEREAS**, the Center for Disease Control (“CDC”) has emphasized the COVID-19 risk to individuals is dependent on exposure, and transmission is through respiratory droplets produced when an infected person coughs or sneezes; and

**WHEREAS**, there have been COVID-19 related deaths statewide with multiple deaths in the Oklahoma City metropolitan area, which includes Nichols Hills; and

**WHEREAS**, Oklahoma City-County Health Department (“OCCHD”) states this is the worst public health crisis to face our city in the last half-century; and

**WHEREAS**, the CDC issued Interim Guidance for Mass Gatherings or Large Community Events which recommends putting into action strategies for prohibiting people from direct contact with one another and postponing or canceling large gatherings; and

**WHEREAS**, on March 25, 2020, the State Board of Education unanimously approved an order that implements a Distance Learning Plan to complete the 2019-2020 school year for Oklahoma students without reopening school buildings; and

**WHEREAS**, on April 6, 2020, the President declared COVID-19 as a major disaster in the State of Oklahoma; and

**WHEREAS**, upon the declarations of emergency by the President and the Governor of Oklahoma, the Emergency Price Stabilization Act was automatically applicable, and this Act prohibits the sudden and often dramatic increase in the price of goods and/or services, including but not limited to rental prices of dwelling units in an amount of more than ten percent of the amount prior to the declaration; and

**WHEREAS**, due to the previous regulations enacted by the City to control the COVID-19 Virus, as of April 24, 2020, local data indicated the Nichols Hills area appeared to meet the Phase I criteria set out in the White House Opening Up America Again Guideline; specifically there had been a downward trajectory of influenza-like illnesses and COVID-like syndromic cases within the past 14 days and a downward trajectory of positive COVID tests as a percent of total tests within the 14-day period; and

**WHEREAS**, on April 22, 2020, the Governor announced a plan and guidelines on how, dependent upon the data indicators, Oklahoma may attempt to encourage businesses to reopen while maintaining the safety and health of the community; and

**WHEREAS**, the transmission of COVID-19 and COVID-related deaths continue, and provisions for the safety of the life, health, and property of Nichols Hills residents are still necessary and require a phased approach to reopen businesses in Nichols Hills; and

**WHEREAS**, it is important, as supported by the President and Governor, to slowly and cautiously work towards reopening businesses, and this can be accomplished through Proclamation provisions in a gradual nature, as has occurred over the past revised versions of this document; and

**WHEREAS**, the OCCHD has consulted the CDC and health officials and developed health guidelines which every business in Nichols Hills should consult for best practices; and

**WHEREAS**, pursuant to Section 22-120 of Title 11 of the Oklahoma Statutes, municipalities are authorized to make regulations to prevent the introduction of contagious diseases into the municipality and may enforce quarantine laws; and

**WHEREAS**, pursuant to Section 18-23 of the Nichols Hills City Code, “in the event of an enemy-caused emergency or emergencies resulting from natural causes, the director of emergency management, after due authorization as provided in Section 18-26 of this article, shall have the power and authority to enforce all rules and regulations relating to civil emergencies and, if necessary, take control of transportation, communications, stocks of fuel, food, clothing, medicine and public utilities for the purpose of protecting the civilian population;” and

**WHEREAS**, Title 21, Section 1321.9 of the Oklahoma Statutes allows cities and towns to enact ordinances establishing a State of Emergency; and

**WHEREAS**, the City Council of the City of Nichols Hills, Oklahoma pursuant to the authority vested in the Council pursuant to the Ordinances of the City and the Laws of the State of Oklahoma, determined by Resolution 1373 approved on March 24, 2020 that the COVID-19 pandemic, and specifically the local community transmission of such disease, is and continues to be a public disaster which affects life, health, property and public peace within the limits of the City of Nichols Hills, Oklahoma, and has declared a state of emergency within the City, and, hereby presently ratifies, renews and restates Resolution 1373 insofar as it determines that the COVID-19 pandemic, and specifically the local community transmission of such disease, is and continues to be a public disaster which affects life, health, property and public peace within the limits of the City of Nichols Hills, Oklahoma, and declares a state of emergency within the City, and therefore the following Ordinance is enacted:

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NICHOLS HILLS, OKLAHOMA:

**SECTION 1.** Chapter 32, Article VI, entitled *Offenses Involving Public Safety*, of the Nichols Hills City Code is hereby amended by adding a new Division 3 entitled *COVID-19 Virus Control Regulations*, which shall repeal, supersede and replace the provisions of Ordinance No. 1180 enacted on March 27, 2020, which new amended Ordinance provides as follows, to wit:

**ARTICLE VI. OFFENSES INVOLVING PUBLIC SAFETY**

**DIVISION 3. COVID-19 VIRUS CONTROL REGULATIONS.**

**Sec. 32-224. Specific COVID-19 Virus control regulations.**

(a) All special events permits and revocable permits issued for events on City property or requiring the closure of public right-of-way for events are revoked and such new permits shall not be issued.

(b) All bars without on-premises food service, night clubs, hookah bars, cigar bars, and vaping lounges shall be closed to the public. This does not prohibit the presence of personnel required for the maintenance of such facilities or grounds. All other persons are restricted from such places.

(c) All restaurants, bars with on-premises food service, breweries, wineries, taverns, food halls, cafeterias, and any other food service are required to maintain the following standards to limit the spread of the COVID-19 Virus:

(1) Employees' temperatures should be checked each day either by the employee or their employer and employees with a temperature above 100.4°F should not be at the facility;

(2) All servers and staff interacting with customers must wear facial masks or coverings, including but not limited to table bussers and food delivery personnel; except that wait staff taking customer orders, hosts/hostesses and managers need not wear facial masks or coverings provided that they maintain six (6) feet of social distancing from customers;

(3) All tables available for seating must be at least six (6) feet apart;

(4) All menus shall be single use or capable of being sanitized after each use;

(5) All condiment bottles must be sanitized after each table change, or condiments must be served in a single use packet, disposable container, or washable dish;

(6) Service at buffets and salad bars must be provided by an employee only;

(7) Tables, chairs, and objects used to complete a purchase must be sanitized using appropriate antimicrobial disinfectants after each use; and

(8) No parties exceeding ten (10) people are allowed at one table in the dining area, unless household family members.

(d) At all City parks, social distancing of participants and spectators must be maintained, including but not limited to six (6) feet between each person. Public park playground equipment shall not be used.

(e) All athletic gyms, recreation centers, exercise facilities, indoor sports facilities, and similar recreational facilities must maintain strict social distancing, CDC sanitation protocols, and comply with the following standards:

(1) Employees' temperatures should be checked each day either by the employee or their employer and employees with a temperature above 100.4°F should not be at the facility;

- (2) Employees that have contact with the public must wear face masks or coverings;
- (3) Surfaces such as doorknobs, gates, counters, and other items that are high-touch should be regularly cleaned and sanitized using appropriate antimicrobial disinfectants;
- (4) Locker rooms and bathrooms must be cleaned and sanitized regularly, particularly high-touch surfaces, and ensure they have handwashing supplies;
- (5) Measures must be taken to ensure that access to handwashing/hand sanitizing facilities and supplies are available for employees and customers; and
- (6) Rental equipment and shared equipment must be cleaned and sanitized by the customer or an employee using appropriate antimicrobial disinfectants before or after each use.

(f) Facilities where persons gather for presentation or entertainment, such as movie and live theaters, concert halls, and places of worship, must maintain strict social distancing, CDC sanitation protocols, and comply with the following standards:

- (1) Employees' temperatures should be checked each day either by the employee or their employer and employees with a temperature above 100.4°F should not be at the facility;
- (2) Seating must be offered in a staggered manner such that there is six (6) feet of spacing between attendee groups, at least two (2) seats between attendee groups in the same row and the facility must close every other row;
- (3) Attendee groups must be limited to no more than ten (10) people unless household family members; and
- (4) All food service must comply with the requirements of subsection (c) hereof.

(g) Personal care businesses may operate by appointment only and must follow CDC sanitation protocols and comply with the following standards:

- (1) Employees' temperatures should be checked each day either by the employee or their employer and employees with a temperature above 100.4°F should not be at the facility;
- (2) Employees at these facilities must use facial masks or coverings, and customers shall be offered sanitized face coverings, provided that if the customer does not have a mask or face covering of their own, service may be refused;
- (3) All chairs and tools must be sanitized using appropriate antimicrobial disinfectants between customers; and

(4) While receiving services, customers shall remain at least six (6) feet apart.

“Personal care” businesses include salons (hair and nail), barber shops, cosmetology facilities, esthetician facilities, laser hair removal facilities, spas, massage facilities, tattoo parlors, and piercing facilities.

(h) Social gatherings of more than ten (10) people on public or private property are prohibited. A “social gathering” is defined as persons coming together at a central point with specific people, not living in their household, for socialization. A gathering does not include people in a location independently performing work as part of employment, people independently or in groups of ten (10) or less patronizing businesses or open facilities or performing disaster relief work.

(i) Other than event permits described in subsection (a) hereof, all licenses, permits, and certificates previously issued by the City and scheduled to expire while this State of Emergency is in effect shall be deemed to be renewed, provided that the applicable fees are paid and necessary inspections and approvals, if any, are satisfactorily completed, within thirty (30) days following the repeal of this Ordinance.

(j) Notwithstanding any conflicting provisions contained in the Nichols Hills City Code, temporary signs notifying the public of carry-out or curbside service are permitted.

(k) This Section 32-224 only regulates the activities and uses herein described, and does not otherwise regulate retail, commercial, office, service, institutional, residential or other activities or uses.

(l) Any person, including but not limited to an owner, manager, employee and/or representative of a location or facility, not complying with the requirements of this Section 32-224 shall be in violation of the Nichols Hills City Code.

(m) The regulations of this Section 32-224 shall be effective at 12:01 AM on May 1, 2020 and shall continue in effect until terminated by law or by future action of the Council.

**Secs. 32-225 - 32-354. Reserved**

**SECTION 2.** This Ordinance shall be codified as set forth above.

**SECTION 3.** All ordinances and resolutions or parts of same in conflict herewith, to the extent of such conflict, are hereby repealed.

**SECTION 4.** The provisions of this ordinance are severable and if any part or provision hereof shall be adjudged invalid by any court of competent jurisdiction, such adjudication shall not affect or impair any of the remaining parts or provisions hereof.

**SECTION 5. EMERGENCY SECTION.** WHEREAS, in the judgment of the Council it is necessary for the preservation of the peace, health, welfare and safety of the City of Nichols Hills,

Oklahoma, and of the inhabitants thereof that the provisions of this ordinance be put into full force and effect immediately, and therefore an emergency is hereby declared to exist by reason whereof this ordinance shall take effect and be in full force from and after its passage as provided by law.

PASSED by the Council of the City of Nichols Hills, Oklahoma, on the 30th day of April, 2020.

APPROVED by the Mayor of the City of Nichols Hills, Oklahoma, on the 30th day of April, 2020

ATTEST:

Steven J. Goetzinger  
Mayor

Amanda Copeland

City Clerk

Reviewed as to Form and Legality:

John Michael Williams

City Attorney