RESOLUTION NO. 2020-345

WHEREAS, in December 2019, a novel coronavirus, now designated Coronavirus disease 2019 (COVID-19), was detected in Wuhan City, Hubei Province, China; and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 as a pandemic and urged that all countries take urgent and aggressive action; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency regarding COVID-19; and

WHEREAS, on March 13, 2020, Governor Greg Abbott declared a state of disaster due to COVID-19; and

WHEREAS, on March 13, 2020, the City of Waco closed to the public the Waco-McLennan County libraries, the Cameron Park Zoo, City of Waco Community Centers, City of Waco Senior Centers, Waco Convention Center & Visitors' Bureau, and the Texas Ranger Hall of Fame, said closure to occur on March 14, 2020; and

WHEREAS, on March 13, 2020, the Mayor of the City of Waco and the Waco-McLennan County Public Health District ("Health District") continued to urge persons to cancel, reschedule, and/or not attend gatherings attended by more than 250 people and made other recommendations regarding social distancing; and

WHEREAS, on March 15, 2020, the Centers for Disease Control ("CDC") lowered the recommended number of persons at mass gatherings to 50 persons; and

WHEREAS, on March 16, 2020, the CDC lowered the recommended number of persons at mass gatherings to 10 persons; and

WHEREAS, on March 17, 2020, Mayor Kyle Deaver issued a declaration of local disaster and public health emergency after determining that extraordinary and immediate measures had to be taken to respond quickly to prevent and slow down community spread of COVID-19; and

WHEREAS, on March 19, 2020, Mayor Deaver, McLennan County, and Governor Abbott issued orders, prohibiting social gatherings in excess of 10 people; and

WHEREAS, on March 22, 2020, the Governor issued orders dealing with hospital care during this crisis; and

WHEREAS, at his March 22, 2020 press conference, the Governor acknowledged that the urban centers may need to enact more stringent measures to address this public health emergency and stated that he would applaud the cities for doing so; and

WHEREAS, on March 23, 2020, Mayor Deaver modified the local state of disaster and public health emergency to require sheltering at home; and

WHEREAS, on March 24, 2020, the Mayor and the City Council renewed, restated, and continued the local state of disaster and public health emergency until April 7, 2020; and

WHEREAS, on March 31, 2020, the Mayor and the City Council renewed, restated, and continued the local state of disaster and public health emergency until April 21, 2020; and

WHEREAS, on April 14, 2020 by Resolution No. 2020-247, the Mayor and the City Council renewed, restated, and continued the local state of disaster and public health emergency until April 30, 2020; and

WHEREAS, on April 17, 2020, the Governor issued several executive orders, including Executive Order GA-16, which allowed non-essential, retail businesses to reopen at 12:01 a.m. on Friday, April 24, 2020, for pick up, delivery by mail, and delivery to the customer's doorstep; and

WHEREAS, subsequent executive orders and proclamations of the Governor, including GA-23 ("Governor's Orders"), opened further businesses in phases; and

WHEREAS, the City modified its local state of disaster and public health emergency on April 21, April 28, May 7, and May 19, 2020 in compliance with the orders of Texas Governor Greg Abbott for a phased re-opening of businesses; and

WHEREAS, on May 26, 2020, Gov. Abbott issued a proclamation which modified GA-23 to allow additional openings in the state of Texas; and

WHEREAS, as of May 27, 2020, there are 57,921 persons confirmed to have COVID-19 in Texas, with 113 of those residing in McLennan County; and

WHEREAS, as of May 27, 2020, 1,562 Texans have died from COVID-19, four of whom resided in McLennan County; and

WHEREAS, the City is modifying its order to be in compliance with the Governor's order; and

WHEREAS, because of the risk of the rapid spread of the virus, the need to protect the most vulnerable members of the community, the intent to ensure that the maximum number of people self-isolate in their places of residence to the maximum extent feasible, while enabling essential services to continue, and the desire to slow the spread of COVID-19 to the maximum extent possible, this Order is required; and

WHEREAS, this Order is issued based on evidence of increasing occurrence of COVID-19 within the City and throughout the Central Texas area, scientific evidence and best practices regarding

the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically, and evidence that the age, condition, and health of a significant portion of the population of the City places it at risk for serious health complications, including death, from COVID-19; and

WHEREAS, making the problem worse, some individuals who contract the COVID-19 virus have no symptoms or have mild symptoms, which means they may not be aware they carry the virus; and

WHEREAS, because even people without symptoms can transmit the disease, and because evidence shows the disease is easily spread, gatherings can result in preventable transmission of the virus; and

WHEREAS, the scientific evidence shows that at this stage of the emergency, it is essential to slow virus transmission as much as possible to protect the most vulnerable and to prevent the health care system from being overwhelmed. One proven way to slow the transmission is to limit interactions among people to the greatest extent practicable. By reducing the spread of the COVID-19 virus, this Order helps preserve critical and limited healthcare capacity in the City; and

WHEREAS, local health officials, the local hospitals, and the Health District are all calling for this action to flatten the curve of the virus transmission, and have warned that not taking action could result in the medical resources of McLennan County being overcome; and

WHEREAS, a declaration of local disaster and public health emergency includes the ability to reduce the possibility of exposure to disease, control the risk, promote health, compel persons to undergo additional health measures that prevent or control the spread of disease, including isolation, surveillance, quarantine, or placement of persons under public health observation; and

WHEREAS, the City Council has determined that extraordinary and immediate measures must be taken to respond quickly to prevent and slow down community spread of COVID-19; and

WHEREAS, the City Council finds that it is in the public interest to authorize additional authority as described herein pursuant to the Texas Disaster Act of 1975, as amended, Vernon's Texas Government Code, and provide rules to protect the health of persons in the City pursuant to the Texas Government Code, as amended, and the Texas Health and Safety Code,

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF WACO, TEXAS:

1. The foregoing recitals are incorporated herein and made findings of fact.

2. That the previously declared local state of disaster and public health emergency for the City of Waco, Texas is hereby renewed, restated, and continued, as amended herein.

3. That pursuant to Texas Government Code §418.108(b), the state of disaster shall continue until 11:59 p.m. on July 7, 2020, unless continued, renewed, or rescinded by the City Council of the City of Waco.

4. That pursuant to §418.108(c) of the Texas Government Code, this renewal, restatement, and continuance of the declaration of a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the City Secretary.

5. That pursuant to §418.108(d) of the Texas Government Code, this renewal, restatement, and continuance of the declaration of a local state of disaster activates the City's emergency management plan.

6. That the City affirms the requirements of the Governor's Executive Orders and Proclamations regarding the COVID-19 pandemic, including GA-23 and subsequent orders and proclamations ("Governor's Orders").

7. All public, private, and commercial laboratories operating within the City of Waco and performing COVID-19 testing shall report by 5:00 p.m. each day for the prior 24-hour period to the Health District:

   a. the number of COVID-19 tests performed; and
   b. the number of positive COVID-19 tests.

   Such laboratories shall not provide names or other individually identifiable health information that could be used to identify an individual patient. This information will be used solely for public health purposes to monitor the testing conducted in the City and mitigate and contain the spread of COVID-19.

8. That the following sections of the Code of Ordinances, City of Waco, Texas, are hereby suspended or modified until the state of disaster is terminated or until there is a subsequent resolution of this Council, whichever occurs first:

   a. § 7-54 which prohibits the expenditure of public funds in carrying out any emergency management activity without council approval;

   b. § 24-127 which limits the City Manager's authority on expenditures;

   c. Article VI City Council Meeting Procedures of Chapter 2 to the extent that it requires in person participation and/or public comment on agenda items.

9. That any City ordinance or regulation imposing a time requirement for payment, filing, or appealing a decision, may be extended by the Mayor without further confirmation by the City Council.

10. That the Mayor may suspend or modify any other ordinance or regulation of the City of Waco for a period of not more than seven days from the date of this resolution unless continued or renewed by the City Council of the City of Waco.

11. That no development applications, zoning applications, special permit, or variance applications that require approval from the Plan Commission, Board of Adjustment, Historic Landmark Commission, or the City Council shall be accepted until April 7, 2020, or earlier upon approval by the City Manager of a method of accepting applications other than in person.

12. That the halting of disconnections of water service because of payment delinquency is ratified and that for water accounts that are currently delinquent and would typically be scheduled for disconnection, no additional late fees will be applied if payment arrangements are made while this Resolution is in place.

13. That any fines or fees may be suspended or discontinued by the Mayor.

14. That City Council meetings may be conducted in accordance with alternate measures as permitted by law.

15. That all other, in-person boards and commission meetings are suspended. The following boards and commissions' meetings may be conducted in accordance with alternate measures (not in person meetings) as permitted by law:

    a. Boards and Commissions Committee;
    b. Budget and Audit Committee;
    c. Building Standards Commission;
    d. Plan Commission;
    e. Waco-McLennan County Public Health District;
    f. Waco Metropolitan Planning Organization Policy Board;
    g. Zoning Board of Adjustment;
    h. 2020 Census Complete Count Committee; and
    i. Any board or commission meeting as required to consider applications subject to state law-imposed deadlines.

With permission of the City Manager, boards and commissions, other than the ones listed above in a. through i., may conduct meetings in accordance with alternate measures (not in person meetings) as permitted by law.

16. That the City Manager or the designee of the City Manager is authorized, without further approval of the City Council, to:

a. Make application for local, state, and federal assistance as necessary and/or applicable;
b. Accept on behalf of the City services, gifts, grants, equipment, supplies, and/or materials whether from private, nonprofit, or government sources;
c. Enter into interlocal cooperation agreements or memorandums of understanding with other cities, counties, or jurisdictions to provide for law enforcement assistance or other shared services to assist in this resolution or the COVID-19 pandemic; and
d. Contract for expenditures for budgeted items and emergency expenditures in an amount not to exceed $250,000.00.

After cessation of this emergency, the City Manager shall provide the City Council a list of all actions taken under this paragraph.

17. That although not required by law and out of an abundance of caution, the City Manager or the designee of the City Manager is authorized to (and any prior acts are ratified):

    a. Close, including a closure to the public, of any City offices, facilities, or properties, including parks, playgrounds, or playground equipment; and
    b. Provide city services by means other than in person delivery, such as accepting permit applications online or by mail only, and/or to cease any city services that are not required by state or federal law.

18. That any ordinances, rules, or regulations of the City of Waco, Texas, that conflict with this Resolution are hereby suspended, such suspension to remain in effect until the state of disaster is terminated or until there is a subsequent resolution of this Council, whichever occurs first.

19. That pursuant to Section 418.020 (d) of the Texas Government Code, the City of Waco is authorized to:

    a. Temporarily or permanently acquire by lease, purchase, or other means sites required for installation of temporary housing units or emergency shelters for disaster victims; and
    b. Enter into arrangements necessary to prepare or equip the sites to use the housing units or shelters, including arrangements for the purchase of temporary housing units or shelters and the payment of transportation charges.

20. That pursuant to Section 122.006 of the Texas Health and Safety Code, the City of Waco and the Health District are authorized to adopt rules to protect the health of persons in the City of Waco, including quarantine rules to protect residents against communicable disease and provide for establishment of quarantine stations, emergency hospitals, and other hospitals.

21. That the City of Waco must promptly provide copies of this Resolution by posting it on the City of Waco website. In addition, the owner, manager, or operator of any facility that is likely to be impacted by this Resolution is strongly encouraged to post a copy of this Resolution onsite and to provide a copy to any member of the public asking for a copy.

22. Failure to comply with any of the provisions of this Order constitutes an imminent threat to public health.

23. That a violation of this order or the Governor's Orders shall be a Class C misdemeanor and the penalty for violating this Resolution shall be a fine of not less than one dollar ($1.00) and no more than one thousand dollars ($1,000.00), and each day a violation exists shall be a separate offense. That this declaration also hereby authorizes the use of any other lawfully available enforcement tools.

24. That any violation of this resolution can be enjoined by a suit filed in the name of the City of Waco in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this resolution or in the Code of Ordinances, City of Waco, Texas.

25. That nothing in this resolution shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any prior act, ordinance, order, declaration, or resolution of the City Council of the City of Waco; nor shall any legal right or remedy of any character be lost, impaired, or affected by this resolution.

26. All provisions of this Resolution should be interpreted to effectuate this intent.

27. That the terms and provisions of this resolution shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this resolution shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this resolution and the remainder of such resolution shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

28. That this resolution is effective at 12:01 a.m. on Friday, May 29, 2020.

PASSED, APPROVED and ORDERED this 28th day of May, 2020.

Kyle Deaver, Mayor
Waco, Texas

ATTEST:

Esmeralda Hudson, City Secretary

CITY OF WACO TEXAS

APPROVED AS TO FORM & LEGALITY:

Jennifer Richie, City Attorney

This Notice is Being Posted at Waco City Hall on the 28th Day of May, 2021 at 4:55 AM/PM