



Code Compliance Check: Dallas Restaurant Owners Will Receive Notice of Violation For Failure to Post March 16 Amended Order Onsite

The City of Dallas Department of Code Compliance has begun issuing notices of violation for restaurant owners who have not posted Dallas Mayor Eric Johnson's Amended Emergency Regulations Order onsite to be visible to the users of their facilities. Following is an example of a "Notice of Violation", which is a "fix-it" violation with re-inspection within **30 minutes** after receiving the initial notice and fines of up to **\$2,000** per day for non-compliance.

Section 4 of the Amended Order on **Page 4** in the attached governs "Posting of these Regulations," which states: "The owner, manager or operator of any facility that is likely to be impacted by these regulations **shall** post a copy of these regulations onsite and visible to users of the facility and provide a copy to any user of the facility asking for a copy."

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|  City of Dallas | DEPARTMENT OF CODE COMPLIANCE COVID-19 NOTICE OF VIOLATION |
|---|---|

DATE: Mar 24 2020 1:27 PM

PERSON(S) IN CONTROL: _____

ADDRESS: _____

CITY, STATE, ZIP: Dallas TX

PROPERTY ADDRESS: _____

BUSINESS NAME: _____

To comply with the Amended Emergency Regulations (Mar. 16, 2020, Dallas Texas), you must do the following:

Prohibited Gathering

LIMIT THE OPERATION OF THE BUSINESS TO ONLY THE SALE OF FOOD FOR DRIVE-THROUGH, DRIVE-IN, TAKEOUT OR DELIVERY ONLY – A restaurant with or without drive-in or drive-through services; drive-in restaurant; drive-through restaurant; or microbrewery, micro-distillery, or winery may only provide take out, deliver, or drive-in or drive-through services as allowed by law. (AER. 31474 Sec. (1)(a)(b))

CEASE THE OPERATION OF THE BUSINESS – A bar, lounge, or tavern; private club; personal service use for gym or health studio; commercial amusement (inside); or theater shall close. (AER. 31474 Sec. (1)(a)(c))

Failure to Post

POSTING OF THESE REGULATIONS ONSITE AND VISIBLE TO THE USERS OF THE FACILITY AND PROVIDED TO ANY USER IF REQUESTED. (AER. 31474 Sec. (4))

I will reinspect this property/business within **30 minutes** after you receive this notice to determine if the above described violation(s) have been corrected. If your property is not brought into compliance within the above timeframe, the City may:

- Issue a citation for each day a violation is committed (maximum fine of \$2,000.00 per citation);
- Revoke your Certificate of Occupancy; and/or
- File a lawsuit to obtain against the owner or owner's representative with control over the premises an injunction that requires specific conduct that is necessary for compliance with the ordinance.

Thank you in advance for your cooperation. If you have any questions, please call me at:

Inspector Name: C. Harris

Inspector Number: _____



Craig A. Harris
 Shareholder / Dallas Office: 214.855.7590
charris@munsch.com Cell: 469.955.5856

March 16, 2020

31474

AMENDED EMERGENCY REGULATIONS

WHEREAS, by proclamation issued March 12, 2020, pursuant to the Texas Disaster Act of 1975, the Mayor declared a state of local disaster for the City of Dallas resulting from the COVID-19 Pandemic;

WHEREAS, Texas Government Code Section 418.108 authorizes the Mayor of the City of Dallas to order the evacuation of all or part of the population from a stricken or threatened area under the jurisdiction and authority of the Mayor if the Mayor considers the action necessary for the preservation of life or other disaster mitigation, response, or recovery; and authorizes the Mayor to control ingress to and egress from a disaster area under the jurisdiction and authority of the Mayor and control the movement of persons and the occupancy of premises in that area;

WHEREAS, Section 14B-7 of the Dallas City Code authorizes the City Manager to "promulgate such regulations as he or she deems necessary to protect life and property and preserve critical resources" while a state of disaster is in effect; and

NOW, THEREFORE, except Sections 1 and 3, the following regulations take effect immediately upon issuance, and shall continue until the regulations are rescinded, superseded, or amended, or until expiration pursuant to applicable law. Sections 1 and 3 of these regulations take effect at 11:59 p.m. on March 16, 2020, and shall continue until they are either rescinded, superseded, or amended or until they expire pursuant to applicable law.

SECTION 1. PROHIBITED AND LIMITED GATHERINGS.

(a) Public or private Community Gatherings (as defined in Section 3 below) are prohibited anywhere in the City of Dallas. The uses in Subsections (b) and (c) of this Section are not considered “Community Gatherings,” but are limited or prohibited as provided in Subsections (b) and (c).

(b) A restaurant with or without drive-in or drive-through services; drive-in restaurant; drive-through restaurant; or microbrewery, micro-distillery, or winery may only provide take out, delivery, or drive-in or drive-through services as allowed by law.

(c) A bar, lounge, or tavern; private club; personal service use for gym or health studio; inside commercial amusement; commercial amusement (inside); or theater (theatre) shall close.

SECTION 2. REPORTING OF COVID-19 TESTS.

(a) All public, private, and commercial laboratories operating within the City of Dallas and performing COVID-19 testing shall report by 5:00 p.m. each day for the prior 24-hour period (1) the number of COVID-19 tests performed and (2) the number of positive COVID-19 tests to Rocky Vaz, Director of Emergency Management for the City of Dallas at Oemdepartment@dallascityhall.com, if either the specimen is collected in, or the test is performed in, the City of Dallas.

(b) 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.

SECTION 3. DEFINITIONS.

(a) For purposes of these regulations, a “Community Gathering” is any indoor or outdoor event or convening, subject to the exceptions and clarifications below, that brings together or is likely to bring together fifty [~~five-hundred (500)~~] or more persons at the same time in a single room or other single confined or enclosed space, such as an auditorium, [~~theatre,~~] stadium (indoor or outdoor), arena or event center, meeting hall, conference center, large cafeteria, or any other confined indoor or confined outdoor space.

(b) An outdoor “Community Gathering” under these regulations is limited to events in confined outdoor spaces, which means an outdoor space that: (i) is enclosed by a fence, physical barrier, or other structure and (ii) where people are present and they are within six feet [~~arm’s length~~] of one another for extended periods.

~~(c) [These regulations also do not prohibit gatherings of people in multiple, separate enclosed spaces in a single building such as a multiplex movie theater, school or office tower, so long as 500 people are not present in any single space at the same time. These regulations also do not prohibit the use of enclosed spaces where 500 or more people may be present at different times during the day, so long as 500 or more people are not present in the space at the same time.]~~

~~d.]~~ For purposes of clarity, a “Community Gathering” does not include the following, or other similar uses, so long as persons attending the Community Gathering [~~visitors~~] are generally not within six feet [~~arm’s length~~] of one another for extended periods:

(i) spaces where fifty [~~500~~] or more persons may be in transit or waiting for transit such as airports, bus stations, or terminals;

(ii) office space, public and private schools, child-care facilities, [~~or~~] residential buildings, or any type of temporary sheltering or housing (*see also* Subsection 7(a));

(iii) grocery stores, shopping malls, or other retail establishments where large numbers of people are present, but it is unusual for them to be within six feet [~~arm's length~~] of one another for extended periods (see also Subsections 1(b) and (c) above); and

(iv) hospitals and medical facilities.

SECTION 4. POSTING OF THESE REGULATIONS.

The owner, manager, or operator of any facility that is likely to be impacted by these regulations shall post a copy of these regulations onsite and visible to users of the facility and provide a copy to any user of the facility asking for a copy.

SECTION 5. SEVERABILITY.

If any subsection, sentence, clause, phrase, or word of these regulations or any application of them to any person, structure, gathering, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision will not affect the validity of the remaining portions or applications of these regulations.

SECTION 6. EFFECTIVE DATE [~~IMMEDIATELY~~].

Except Sections 1 and 3, t[F]hese regulations take effect immediately, and shall continue until they are either rescinded, superseded, or amended or until they expire pursuant to applicable law. Sections 1 and 3 of these regulations take effect at 11:59 p.m. on March 16, 2020, and shall continue until they are either rescinded, superseded, or amended or until they expire pursuant to applicable law.

SECTION 7. SUSPENSION AND MODIFICATION OF ORDINANCES.

(a) Any ordinance, [~~or~~] order, or regulation that would prevent temporary sheltering and housing by the City, State of Texas, or the Federal Government in response to the declared disaster are suspended or modified as necessary to make these regulations effective.

(b) Any ordinance or regulation imposing a time requirement for approving or denying an application or for appealing a city decision is tolled.

(c) Any ordinances or regulations that conflict with these regulations are suspended or modified as necessary to make these regulations effective.

(d[e]) Suspension or modification of the ordinances and regulations shall remain in effect until these regulations are terminated or until the state of disaster is terminated, whichever is sooner.

SECTION 8. PENALTIES.

(a) These emergency regulations shall have the effect of an ordinance when duly filed with the city secretary.

(b) A person who violates any provision of these regulation, upon conviction, is punishable by a fine of not less than \$50 and not more than \$2,000.

CITY OF DALLAS

BY: 
ERIC JOHNSON, Mayor

MAR 16 2020
passed: _____

BY: 
T.C. BROADNAX
City Manager

APPROVED AS TO FORM:
CHRISTOPHER J. CASO
Interim City Attorney

BY: 
Assistant City Attorney