

Introduced and Adoption: May 19, 2020
Second Reading: Suspended Rules
Third Reading & Adoption: Suspended Rules

CITY OF MOUNT RAINIER, MARYLAND
ORDINANCE 05 – 2020

Drafted by: Elissa Levan, City Attorney

**Emergency Ordinance Of The Mayor & City Council Of The City Of Mount Rainier,
Imposing Certain Restrictions On The Movements Of Persons In The City And On The
Operation Of Businesses In The City During The Present State of Emergency Arising
From The Widespread Presence And Spread Of The Infectious Disease
Known As COVID-19.**

WHEREAS, pursuant to Md. Code Ann., Local Gov't. Article, § 5-202, the City of Mount Rainier, Maryland (the "City") has the authority to pass such ordinances as it deems necessary to preserve peace and good order, to secure persons from danger and destruction and to protect the health, comfort and convenience of the citizens of the municipality; and

WHEREAS, § 5-209(c) of the Local Gov't Article permits the City to establish quarantine regulations; authorize the removal or confinement of individuals having infectious or contagious diseases; prevent and remove nuisances; prevent the introduction of contagious diseases into the municipality; and regulate any place where noxious things are manufactured, offensive trades are conducted, or that may cause unsanitary conditions or conditions detrimental to health.

WHEREAS, Section 402(A)(25) of the City Charter implements the authority of Local Gov't Art., § 5-209; and

WHEREAS, pursuant to this authority, the City Council has enacted certain regulations pertaining to health and sanitation, which are codified in Chapter 6, "Health and Nuisances" of the City Code, which, among other things, creates the office of City health officer and sets forth the health officer's duties; and

WHEREAS, the world is undergoing a public health crisis caused by the spread of a virus that causes the illness known as COVID-19, which has killed tens of thousands of people and sickened millions in the United States alone and which continues to infect, injure and kill at an unacceptable rate in many places, including the City of Mount Rainier; and

WHEREAS, the COVID-19 emergency has required the closure of most businesses, the implementation of severe restrictions on the movements of ordinary citizens, and the establishment of public health protocols and precautionary measures in order to control the spread of the disease; and

WHEREAS, the Governor of the State of Maryland, in order to alleviate severe hardship and mitigate dire economic consequences in the State, has developed a plan to reopen business and restore public activities gradually, as part of which plan the Governor has relaxed certain previously prevailing restrictions imposed by an Executive Order known as the “Stay At Home Order” on residents and businesses in the State in favor of a less restrictive paradigm; and

WHEREAS, while the City Council supports the Governor’s actions as a matter of State policy and believes his actions during the pandemic have been necessary and appropriate, it believes that public health conditions in the City are not yet sufficiently improved to warrant a relaxation in the Stay At Home Order rules; and

WHEREAS, the City Council finds that there exists an urgent necessity for the adoption of this ordinance given the relaxation of the statewide Stay At Home Order by the Governor as of May 15, 2020 at 5:00 p.m. and declares, by four votes of members of the City Council, this Ordinance to be an emergency sufficient to waive the requirements of Section 307(B) of the Charter that would prevent it from being adopted at the same meeting at which it is introduced.

Section 1. **NOW THEREFORE, BE IT ORDAINED AND ENACTED** by the Mayor and Council of the City of Mount Rainier, Maryland that effective immediately

I. Stay-At-Home Order

A. All persons living in the City are hereby ordered to stay in their homes or places of residences (“Homes”) except:

1. To conduct or participate in Essential Activities (defined below) or Permitted Outdoor Activities (defined below):

2. Staff and owners of businesses and organizations that are not required to close may travel:

a. Between their Homes and those businesses and organizations; and

b. To and from customers for the purpose of delivering goods or performing services; and

3. staff and owners of Non-Essential Businesses (defined below) may travel:

a. Between their Homes and those Non-Essential Businesses for the purpose of engaging in Minimal Operations; and

b. To and from customers for the purpose of delivering goods.

B. As used herein, “Essential Activities” means:

1. Obtaining necessary supplies or services for one’s self, family, household members, pets, or livestock, including, without limitation: groceries, supplies for household consumption or use, supplies and equipment needed to work from home, laundry, and products needed to maintain safety, sanitation, and essential maintenance of the home or residence;

2. Engaging in activities essential for the health and safety of one's self, family, household members, pets, or livestock, including such things as seeking medical or behavior health or emergency services, and obtaining medication or medical supplies;

3. Caring for a family member, friend, pet, or livestock in another household or location, including, without limitation, transporting a family member, friend, pet, or livestock animal for essential health and safety activities;

4. Traveling to and from an educational institution for purposes of receiving meals or instructional materials for distance learning;

5. Travel required by a law enforcement officer or court order; or

6. Traveling to and from a Federal, State, or local government building for a necessary purpose.

C. As used herein, "Permitted Outdoor Activities" means the following, done in compliance with applicable Maryland State Secretary of Health's Directives, Health Officer Directives, and social distancing guidance published by the Centers for Disease Control and the Maryland Department of Health:

1. Outdoor exercise activities, such as walking, hiking, running, biking, or individual and small group sports such as golfing, tennis, and similar activities;

2. Outdoor fitness instruction;

3. Recreational fishing, hunting, shooting, and archery;

4. Recreational boating;

5. Horseback riding; and

6. Visiting cemeteries

D. Except as set forth in Paragraph I.E. of this Order, Non-Essential Businesses (as defined below) shall remain closed to the public.

E. Staff and owners may continue to be on-site at Non-Essential Businesses for only the following purposes:

1. Facilitating remote working (a/k/a/ telework) by other staff;
2. Maintaining essential property;
3. Preventing loss of, or damage to property, including without limitation, preventing spoilage of perishable inventory;
4. Performing essential administrative functions, including without limitation, picking up mail and processing payroll; and
5. Caring for live animals.

F. Non-Essential Businesses are defined as all businesses, organizations, establishments, and facilities that are not part of the critical infrastructure sectors identified by the U.S. of Homeland Security, Cybersecurity and Infrastructure Security Agency (currently described at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19> (collectively, “Non-Essential Businesses”))

II. Closure of Certain Specific Businesses, Organizations and Facilities

A. Senior Centers

All senior citizen activities centers (as defined in Section 10- 501 (i) of the Human Services Article of the Maryland Code) shall remain closed.

B. Restaurants and Bars

1. Restaurants, bars, and other similar establishments that sell food or beverages for consumption on-premises in the City ("Restaurants and Bars") shall remain closed to the general

public, except that, in accordance with any social-distancing recommendations of Maryland Department of Health or Prince George's County Health Department, food and beverages may be:

a. Sold if such food or beverages are promptly taken from the premises, i.e., on a carry-out or drive-through basis; or

b. Delivered to customers off the premises.

2. This Order does not apply to food or beverage services in health care facilities, which are expressly excluded from the definition of "Restaurants and Bars."

C. Fitness Centers

1. This Executive Order controls the occupancy and use of fitness centers, health clubs, health spas, gyms, aquatic centers, and self-defense schools in the City Maryland ("Fitness Centers").

2. All Fitness Centers shall remain closed to the general public, except that the portion of any Fitness Center that is licensed or otherwise permitted by applicable law, regulation, or order to provide child care services may remain open to the general public for the purpose of continuing to provide such child care services.

D. Theaters

Theatres in the City at which live performances occur or motion pictures are shown shall remain closed to the general public.

E. Malls

1. This Ordinance controls the occupancy and use of shopping centers in the City that have one or more enclosed pedestrian concourses ("Enclosed Malls").

2. Except as set forth in paragraphs II.E.3 and II.E.4 of this Order, the following portions of Enclosed Malls shall remain closed to the general public:

a. Pedestrian concourses and other interior common areas open to the general public, including without limitation, food courts; and

b. Retail establishments only accessible to the general public from enclosed pedestrian concourses or other interior areas.

3. Retail establishments attached to Enclosed Malls that are directly accessible from the outside are not required to close.

4. Access to the general public to the following portions of Enclosed Malls is not prohibited:

a. That primarily sell groceries or pharmacy products, or

b. At which licensed professionals provide health care services; and

c. Pedestrian concourses and other interior common areas, but solely to the extent necessary for the general public to access the retail establishments described in this subparagraph.

F. Other Recreational Establishments

1. Except for those activities allowed as Permitted Outdoor Activities as defined in paragraph I.C of this Order, "Recreational Establishments" includes:

a. Bingo halls;

b. Bowling alleys;

c. Pool halls;

d. Amusement parks;

e. Roller- and ice-skating rinks;

f. Social and fraternal clubs, including without limitation, American Legion posts, VFW posts, and Elks Clubs;

g. Campgrounds; and

h. Any other establishment not listed above that is subject to the admission and amusement tax under Title 4 of the Tax- General Article of the Maryland Code.

2. All Recreational Establishments are hereby closed to the general public (including members, in the case of private clubs).

G. Other Miscellaneous Establishments

1. The following establishments shall remain closed to the general public:

a. Tattoo parlors;

b. Tanning salons;

c. Barbershops; and

d. Beauty salons and all other establishments that provide esthetic services, provide hair services, or provide nail services (as described in Title 5 of the Business Occupations Article of the Maryland Code).

III. Size of Gatherings.

Unless specifically allowed pursuant to this Executive Order, social, community, spiritual, religious, recreational, leisure, and sporting gatherings and events ("large gatherings and events") of more than 10 people are hereby prohibited at all locations and venues, including but not limited to parades, festivals, conventions, and fundraisers. Planned large gatherings and events must be canceled or postponed.

IV. Social distancing in retail establishments

Grocery stores, pharmacies and large chain retail establishments are required to promote social distancing inside and even outside of these establishments while customers wait to enter the premises.

V. Further Guidance

For avoidance of doubt, this Order does not require the closure of, or prohibit the movement of any staff or volunteer traveling to, from, or in connection with their duties at any:

- A. Federal, State, or local government unit, building, or facility;
- B. Newspaper, television, radio, or other media service; or
- C. Non-profit organization or facility providing essential services to low-income persons, including, without limitation, homeless shelters, food banks, and soup kitchens.

Section 2. **BE IT FURTHER ORDAINED AND ENACTED** by the Council of the City of Mount Rainier, Maryland that the law enforcement officers of the City of Mount Rainier, together with the City Public Health Officer, if any, and, to the extent authorized by law, the Prince George's County Health Department and Prince George's County law enforcement shall execute and enforce this Order.

Section 3. **BE IT FURTHER ORDAINED AND ENACTED** by the Council of the City of Mount Rainier, Maryland that a person who knowingly and willfully violates this Ordinance is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding one year or a fine not exceeding \$5,000 or both.

Section 4. **BE IT FURTHER ORDAINED** that this Emergency Ordinance is not intended to and shall not have the effect of divesting the Prince George's County Health Officer and/or Prince George's law enforcement from enforcing the terms of any order of the County Executive or the County Health Officer within the boundaries of the City of Mount Rainier.

Section 5. **BE IT FURTHER ORDAINED** that if any provision of this Ordinance or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of the Ordinance shall remain in effect to the extent

possible without the invalid provision or application. To achieve this purpose, the provisions of this Ordinance are severable.

Section 6. **BE IT FURTHER ORDAINED** that this Ordinance shall become effective immediately upon its enactment by the Council of the City of Mount Rainier, Maryland provided that a fair summary of the emergency ordinance shall be immediately published in a newspaper of general circulation in the City, inclusive of the City's newsletter mailed or otherwise delivered to every household, and posted in City Hall and that the Mayor and Council shall hold a public hearing on the emergency ordinance at its next meeting, held not less than fourteen (14) days nor more than forty-five (45) days after its adoption.

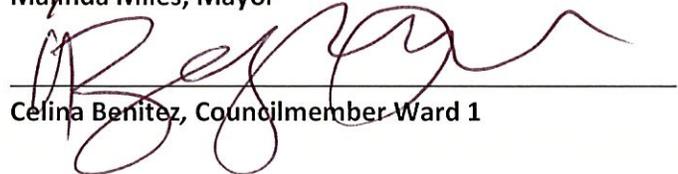
Section 7. **BE IT FURTHER ORDAINED**, that unless terminated, extended or amended, Section I of this Ordinance (“Stay at Home”), shall continue through June 1, 2020. The remainder of this Ordinance shall remain in effect through June 10, 2020.

THIS ORDINANCE IS ADOPTED BY THE MAYOR & CITY COUNCIL OF THE CITY OF MOUNT RAINIER THIS 19th DAY OF MAY, 2020.

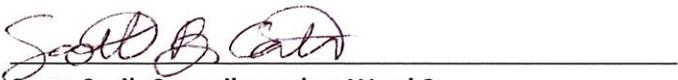
Attest:


Katasha C. Gatling, City Manager


Malinda Miles, Mayor


Celina Benitez, Councilmember Ward 1

Luke Chesek, Councilmember Ward 1


Scott Cecil, Councilmember Ward 2


Bryan Knedler, Councilmember Ward 2