

ORDINANCE REQUIRING PHYSICAL DISTANCING ON PUBLIC SIDEWALKS

July 31, 2020

WHEREAS, the Governor of Virginia, by Executive Order No. 51, declared a state of emergency in Virginia on March 12, 2020, in response to the spread of novel coronavirus, or COVID-19, a communicable disease of public health threat as so declared by the State Health Commissioner on February 7, 2020 (“COVID-19”), stating that the anticipated effects of COVID-19 constituted a disaster as described in § 44-146.16 of the Code of Virginia, 1950, as amended, and directed state and local governments to “render appropriate assistance to prepare for this event, to alleviate any conditions resulting from the situation, and to implement recovery and mitigation operations and activities so as to return impacted areas to pre-event conditions as much as possible”; and

WHEREAS, on March 13, 2020, the County Manager of Arlington County declared a local emergency to enable the County to respond to the public health threat posed by COVID-19, which local emergency declaration was consented to by the County Board of Arlington County on March 14, 2020; and

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

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency, effective March 1, 2020, in response to the spread of COVID-19; and

WHEREAS, effective March 16, 2020, the Governor of Virginia and the State Health Commissioner jointly issued an order declaring a public health emergency resulting from the spread of COVID-19 affecting the health and safety of Virginians, and restricting the number of patrons allowed in permitted restaurants, fitness centers, and theatres to 10 patrons or less in order to inhibit spread of COVID-19, which joint order was amended by Order of Public Health Emergency One, dated March 20, 2020, and which clarified the businesses subject to the joint order and the penalties for violations of it; and

WHEREAS, in subsequent Executive Orders, particularly Executive Order Nos. 53 and 55, as amended, the Governor of Virginia, among other measures designed to ensure safe physical distancing between individuals, prohibited public and private in person gatherings of 10 or more individuals and ordered all individuals in Virginia to remain at their place of residence, with limited exceptions, to mitigate the impacts of COVID-19 and prevent its spread; and

WHEREAS, COVID-19 spreads person to person and, at this time, it appears that COVID-19 is spread primarily through respiratory droplets, which can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs; spread is more likely when people are in close contact with one another (within about six feet); and.

WHEREAS, COVID-19 is extremely easy to transmit, can be transmitted by infected people who show no symptoms, and the population has not developed herd immunity; and

WHEREAS, at this time, there is no known cure, no effective treatment, no vaccine, and because people may be infected but asymptomatic, they may unwittingly infect others; and

WHEREAS, the World Health Organization, the United States Centers for Disease Control and Prevention (“Centers for Disease Control”) and the Virginia Department of Health have identified several behaviors and practices that are fundamental in controlling the spread of COVID-19 in the community: frequently washing hands, sanitizing frequently touched surfaces, wearing a cloth face covering when in public, maintaining a separation of at least six feet between people (“social distancing” or “physical distancing”), limiting the size of gatherings in public places, and limiting the duration of gatherings; and

WHEREAS, the Centers for Disease Control caution that: (i) the more people a person interacts with at a gathering and the longer that interaction lasts, the higher the potential risk of becoming infected with COVID-19 and COVID-19 spreading; (ii) the higher level of community transmission in the area that a gathering is being held, the higher the risk of COVID-19 spreading during the gathering; and (iii) large in-person gatherings where it is difficult for persons to remain spaced at least six feet apart and attendees travel from outside the local area pose the highest risk of COVID-19 spreading; and

WHEREAS, since Governor Northam issued EO 51 on March 13, 2020, he has issued several more Executive Orders jointly with Orders of Public Health Emergency issued by M. Norman Oliver, MD, MA, State Health Commissioner, pertaining to COVID-19; as of the date of adoption of this ordinance, “Executive Order Number Sixty-Seven (2020) and Order of Public Health Emergency Seven, Phase Three Easing of Certain Temporary Restrictions Due to Novel Coronavirus (COVID-19)” (collectively referred to as “EO 67”), which became effective at 12:00 a.m. on July 1, 2020, is in effect; and

WHEREAS, since the inception of Phase Three, Arlington County has experienced significant crowding inside restaurants and on the public sidewalks, rights of way, and adjacent public spaces where patrons gather for oftentimes prolonged periods awaiting admission to the restaurants without adhering to the above described behaviors and practices including wearing face coverings and practicing physical distancing thereby creating a significant potential for spread of COVID-19; and

WHEREAS, the County Board finds that in order to protect the public health by preventing the spread of COVID-19, and resulting serious illness and death, measures are necessary to prevent overcrowding by pedestrians using the public sidewalks, rights of way, and adjacent public spaces, and to require adherence to physical distancing requirements;

NOW, THEREFORE, BE IT ORDAINED, that the County Board of Arlington County, Virginia, hereby adopts, on an emergency basis, effective immediately, the ordinance amendments attached hereto; and

BE IT FURTHER ORDAINED, that the aforesaid amendments shall be advertised in accordance with the requirements for § 15.2-1427 of the Code of Virginia, as amended, for public hearing and consideration of adoption at the September 12, 2020, meeting of the County Board.

ORDINANCE AMENDMENT

Amend Chapter 14.2 of the County Code as follows:

§ 14.2-30. Pedestrians to Obey Signs, Signals, Etc.

- A. Pedestrians shall obey signs and signals erected on highways or streets in this County for the direction and control of travel and traffic and they shall obey the orders of police officers engaged in directing traffic and travel on the highways and streets in this County. Violations of this section shall be punished by a fine not exceeding five dollars (\$5.00) for each offense.
- B. During the pendency of a state of emergency declared by the Governor of Virginia or the County based on public health risks associated with the spread of contagious illness, including serious illness and death, pedestrians shall obey signs and other signals erected on highways, streets, sidewalks, and public spaces adjacent thereto used by pedestrians prohibiting pedestrians from congregating in groups of four or more than four persons in those places and requiring pedestrians to maintain a physical separation from others of not less than six feet at all times. Violations of this section shall constitute a traffic infraction and be punished by a fine not exceeding one hundred dollars (\$100) for each offense.
- C. Pedestrian traffic is controlled by the above except when such movement is governed by a pedestrian control signal.

Adopted the 31st day of July, 2020.