ADOPTED BY THE
MAYOR AND COUNCIL

December 1, 2020

ORDINANCE NO. 11808

RELATING TO PUBLIC HEALTH AND SAFETY AND THE PREVENTION OF COMMUNITY-BASED SPREAD OF INFECTIOUS DISEASE; FINDING AND REAFFIRMING THAT THE COVID-19 PANDEMIC CONSTITUTES A CONTINUING LOCAL AND CIVIL EMERGENCY; RESERVED CITY AND MAYOR AND COUNCIL AUTHORITY TO MAKE AND ADOPT ADDITIONAL REGULATIONS.; AND DECLARING AN EMERGENCY.

WHEREAS, Chapter IV, Section 1(10) of the Tucson Charter provides that the City has the power “to make regulations to prevent the spread of diseases;” and Chapter VII, Section 1(28) of the Tucson Charter provides that the Mayor and Council have the power to “make all regulations which may be necessary or expedient for the preservation of the health and the suppression of disease; to make regulations to prevent the introduction of contagious, infectious, or other diseases into the city; to make quarantine laws and regulations and to enforce the same within the city; to regulate, control and prevent the entry within the city of persons, baggage, merchandise or other property infected with contagious disease;” and

WHEREAS, the City Charter (Ch. VI, Sec. 5) also vests emergency powers in the Mayor, including the authority to issue emergency proclamations during times of great danger; and

WHEREAS, Arizona statute (A.R.S. Section 26-311) and Tucson Code (Sec. 11-102) each authorize the Mayor, following the declaration of a local or civil emergency, to
govern by proclamation during that emergency and impose necessary regulations – including specifically curfew regulations - to preserve the peace and order of the city, and to promote the interests of public safety and welfare; and

WHEREAS, at the time of the consideration and adoption of this Ordinance, all of the following are true:

1) The State of Arizona is under a continuing Declaration of Public Health Emergency, as ordered by Governor Douglas A. Ducey, due to the necessity to prepare for, prevent, respond to, and mitigate the spread of COVID-19;

2) The City of Tucson is under a continuing Declaration of Emergency or Local and/or Civil Emergency, as proclaimed by Mayor Regina Romero and as supported by motions adopted by unanimous votes of the Mayor and Council on March 24, April 21, June 9, and June 19, 2020, due to the COVID-19 pandemic;

3) the most current local data relating to COVID-19 as provided by the Arizona Department of Health Services (ADHS) and Pima County Health Department (PCHD) show that Pima County and the City of Tucson are experiencing significant community-based transmission of COVID-19, and an increasing pace of viral spread. Current local conditions demonstrate that cases of and hospitalizations for COVID-19 are increasing in Pima County; that the rate of positive test results is either steady or increasing; and that hospital capacity, and ICU bed capacity in particular, within Tucson, Pima County and Southern Arizona is at or very near full capacity.
4) On November 23, 2020, the Pima County Health Department and Pima County Administrator issued a Public Health Advisory requesting that all individuals in Pima County obey a voluntary curfew with no travel, transport or activity (with various exceptions for essential activities, attending work, etc.) between 10:00 p.m. and 5:00 a.m. each day through December 22, 2020. This Health Advisory is attached to Attachment A of the Mayor’s Proclamation (see attachment 4 to the County Administrator’s Memorandum). The Health Advisory was issued due to the dramatic increase in COVID-19 infections in our community during November, as further described in that Exhibit A.

5) On November 27, 2020, the University of Arizona’s COVID-19 Modeling Team directed a letter to the Arizona Department of Health Services, urging immediate statewide action to address current COVID-19 conditions and short-term forecasts. The letter notes that in the absence of immediate action, Arizona "risks a catastrophe on a scale of the worst natural disaster the state has ever experienced." The letter, which is attached as Exhibit B, notes that the most current projections of cases, hospitalizations, and deaths produce a model that predicts that COVID-19 hospitalizations will exceed current ICU and general ward capacity by early December; and will exceed Arizona’s total hospital capacity by late December. The letter recommends certain specific actions, including:
- Immediate implementation of a statewide mask mandate;
- A statewide shelter-in-place order, effective December 1 through December 22;
- Additional state-provided economic relief for small businesses and families; and
- In the absence of state-wide action, the granting of authority to county and city leaders to enact local measures to mitigate the dramatic increase in community spread of COVID-19.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA AS FOLLOWS:

SECTION 1. The Mayor and Council find and reaffirm that the COVID-19 outbreak constitutes a continuing emergency, local emergency and civil emergency that endangers life within the City of Tucson, and requires extraordinary measures to protect public health and safety, all as provided under the Tucson Charter, Arizona Revised Statutes and Tucson Code.

SECTION 2. The Mayor and Council find and affirm that the provisions of the attached Proclamation, including but not limited to the provisions of Section 3 of the Proclamation ordering a temporary and limited curfew, are necessary or expedient for the preservation of the health and the suppression of disease within the City of Tucson, and specifically for the prevention of the community spread of COVID-19. The Mayor and Council further find and affirm that the measures included in the attached Proclamation must be taken to protect the public health, safety and welfare; and to preserve the peace and order of the City of Tucson.
SECTION 3. The Mayor and Council support, endorse and approve the Mayor’s execution and issuance of the attached Proclamation, and approve the Proclamation.

SECTION 4. The Mayor and Council also reserve their legislative and regulatory authority as provided under the Tucson Charter and Arizona law to make and adopt all regulations that may be necessary or expedient for the preservation of health and suppression of infectious disease within the City, and reserve their authority to adopt additional regulations beyond those included in this Ordinance.

SECTION 5. The various City officers and employees are hereby authorized and directed to perform all acts necessary or desirable to give effect to this Ordinance.

SECTION 6. The Mayor and Council also urge Arizona Governor Ducey to enact statewide measures, immediately, to address the surge of community spread of COVID-19 both in our community and throughout the state. The Mayor and Council believe that immediate measures on a statewide basis – including but not limited to a statewide mask mandate – could help avoid the future need for a more restrictive shelter-in-place/stay at home order, and help avoid the associate economic impacts of such an order.

SECTION 7. Whereas, it is necessary for the preservation of the peace, health and safety of the City of Tucson that this Ordinance become immediately effective, an emergency is hereby declared to exist and Ordinance shall be effective immediately
upon its passage and adoption.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Tucson, Arizona, December 1, 2020.

______________________________
MAYOR

ATTEST:

______________________________
CITY CLERK

APPROVED AS TO FORM:       REVIEWED BY:

______________________________     ______________________________
CITY ATTORNEY     CITY MANAGER

MR/dg
11/30/20