



ADDENDUM

TO THE MIDWEST CITY COUNCIL

AGENDA FOR APRIL 28, 2020

---

C. DISCUSSION ITEMS CONTINUED.

2. Discussion and Consideration of an Ordinance amending the Midwest City Municipal Code, Chapter 11, City Emergency Management, Section 11-3 Emergency Operating hours and procedures for Commercial Enterprises; providing for repealer, severability and declaring an emergency. (City Attorney - H. Poole)



**City Attorney**  
100 N. Midwest Boulevard  
Midwest City, OK 73110  
Hpoole@midwestcityok.org  
Office: 405-739-1203  
www.midwestcityok.org

To: Honorable Mayor and Council

From: Heather Poole, City Attorney

Date: April 28, 2020

Subject: Discussion and Consideration of an Ordinance amending the Midwest City Municipal Code, Chapter 11, City Emergency Management, Section 11-3 Emergency Operating hours and procedures for Commercial Enterprises; providing for repealer, severability and declaring an emergency.

---

The City of Midwest City has continued to address the issues raised by COVID-19 and the changing recommendations on public health controls. On March 13, 2020, the President of the United States declared COVID-19 a national emergency and ordered each state to set up emergency operations centers and ordered hospitals to activate their emergency preparedness plans; then on the 15th of March, 2020 the State of Oklahoma declared an emergency caused by the impending threat of COVID-19 to the people of this state and the public's peace, health and safety, and all 77 of Oklahoma's counties were included in the declaration.

On April 22, 2020 Governor Stitt held a press conference where the Governor's Open Up and Recover Safely (OURS) Plan was outlined. On April 24, 2020 the Governor's Office released the Fourth Amended Executive Order 2020-13 addressing the requirements of his OURS Plan. That action necessitated the Proclamation issued by the City's City Manager on April 23, 2020 amending the dates that this Ordinance is in effect for certain businesses from April 30 to April 23, 2020. There are details regarding safety measures to be taken by businesses in categories that will necessitate customer contact that the City wishes to clarify in its ordinance that are not specifically set out in the OURS Plan. These include the use of masks, gloves and other precautions to control the spread of COVID-19 by businesses that have close contact with customers.

The City wants to insure that public health measures are enforceable and to that end has chosen to enact ordinances to address the public health measures the City is taking under the authority granted under Title 63 Oklahoma Statutes Section 683.3, the Oklahoma Emergency Act of 2003.

Action is at the discretion of Mayor and Council.

---

Heather Poole, City Attorney

1  
2  
3 **ORDINANCE NO. 3406**

4 **AN ORDINANCE AMENDING THE MIDWEST CITY MUNICIPAL CODE, CHAPTER**  
5 **11, CITY EMERGENCY MANAGEMENT, SECTION 11-3 EMERGENCY OPERATING**  
6 **HOURS AND PROCEDURES FOR COMMERCIAL ENTERPRISES; PROVIDING FOR**  
7 **REPEALER AND SEVERABILITY AND DECLARING AN EMERGENCY.**

8 BE IT ORDAINED BY THE CITY OF THE CITY OF MIDWEST CITY, OKLAHOMA:

9  
10 **EMERGENCY ORDINANCE**

11  
12 **SECTION 1.** The Midwest City Municipal Code, Chapter 11, City Emergency Management,  
13 Section 11-3 Emergency Operating Hours and Procedures for Commercial Enterprises is hereby  
14 added as follows:

15  
16 **Sec. -1. – Emergency Operating Hours and Procedures for Food Establishments.**

17 1. During the course of the State of Emergency declared by the City of Midwest City on  
18 March 16, 2020, all businesses should comply with the requirements of this section ~~through~~  
19 ~~April 30, 2020, unless said time period is extended or reduced by the City of Midwest City’s~~  
20 ~~City Manager or designee until the City Manager declares that the State of Emergency has ended~~  
21 ~~for the City of Midwest City.~~

22 2. ~~All bars and similar venues with on-premises food, may serve take-out or delivery food,~~  
23 ~~or pre-packaged alcohol authorized for sale under state law, from 12:00 p.m. March 20, 2020~~  
24 ~~through April 30, 2020 unless said time period is extended or reduced by the City of Midwest~~  
25 ~~City’s City Manager or designee. They must otherwise remain closed to everyone but employees~~  
26 ~~The City of Midwest City shall be implementing the Governor’s “Open Up and Recover Safely~~  
27 ~~(OURS)” plan which was implemented by the Governor’s Order of April 24, 2020. -~~

28 3. ~~Dine in services for food products shall no longer be made available. Food service may~~  
29 ~~only be provided for “carry-out” and “delivery” services from 12:00 p.m. March 25, 2020 to~~  
30 ~~April 30, 2020 unless said time period is extended or reduced by the City of Midwest City’s City~~  
31 ~~Manager or designee~~All personal care service businesses allowed to reopen on April 24, 2020  
32 under the OURS plan shall implement the safety guidelines for employees and customers  
33 outlined in the OURS plan as well as require employees to wear masks and gloves when  
34 interacting with customers and other employees. When other personal care businesses, dining  
35 facilities and other non-essential businesses which are allowed to reopen on or around May 1,  
36 2020 in the OURS plan, those businesses shall implement the safety guidelines set out in the  
37 OURS plan and also be required to have employees wear gloves and masks while interacting  
38 with customers and fellow employees. Other non-essential businesses and activities allowed to  
39 resume on or around May 15, 2020 in the OURS plan, shall also follow the safety guidelines set

40 out in the OURS plan and require employees to wear masks and gloves when interactions occur  
41 between other employees and customers.

42 ~~4. All personal services, such as hair salons, gyms, theaters, massage parlors, tattoo parlors,~~  
43 ~~and museums are ordered to be closed by 11:59 pm March 25, 2020 to April 30, 2020, unless~~  
44 ~~said time period is extended or reduced by the City of Midwest City's City Manager or designee.~~  
45 ~~Only commercial enterprises that meet the definition of essential services as defined by the~~  
46 ~~Governor of Oklahoma's Order of March 24, 2020, and thus meet the criteria to remain open~~  
47 ~~during the City's State of Emergency after March 24, 2020, shall ensure that CDC~~  
48 ~~recommendations on public distancing, of no less than 6 feet, are complied with through~~  
49 ~~measures to distance customers in line, customers being served, and among employees providing~~  
50 ~~these services. The opening dates listed above, and the safety criteria for the businesses set out~~  
51 ~~for each date, may be modified as needed by the City Manager or his designee.~~

52 5. The owner and/or operator of any establishment upon which premises any of the  
53 violations of this ~~subsection ordinance~~ occurs will be in violation for allowing such offense to  
54 occur upon the premises and shall be fined an amount not to exceed \$200.00 and may have its  
55 municipal license or permit revoked or suspended for a period of time up to one (1) year. Any  
56 patrons or staff present may also be cited for any violations of this subsection and shall be fined  
57 an amount not to exceed \$200.00 for each such violation.

58 6. The above restrictions shall not apply to blood drives held by the American Red Cross or  
59 Oklahoma Blood Institute provided social distancing practices are implemented to the maximum  
60 extent practicable in the administration of such drives.

61  
62 **SECTION 2.** REPEALER. All ordinances or parts of ordinances in conflict herewith are  
63 hereby repealed.

64  
65 **SECTION 3.** SEVERABILITY. If any section, sentence, clause or portion of this ordinance is  
66 for any reason held to be invalid, such decision shall not affect the validity of the remaining  
67 portions of the ordinance.

68  
69 PASSED AND APPROVED by the Mayor and Council of the City of Midwest City, Oklahoma,  
70 on the \_\_\_\_ day of \_\_\_\_\_, 2020.

71  
72 THE CITY OF MIDWEST CITY, OKLAHOMA  
73  
74 \_\_\_\_\_  
75 MATTHEW D. DUKES, II, Mayor

76  
77 ATTEST:  
78 \_\_\_\_\_  
79

80 SARA HANCOCK, City Clerk

81

82 APPROVED as to form and legality this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

83

84

\_\_\_\_\_  
HEATHER POOLE, City Attorney

86

87 **SECTION 4.** EMERGENCY. The City Council declares this ordinance to be an emergency, it  
88 being immediately necessary for the preservation of the peace, health and safety of the City of  
89 Midwest City and the inhabitants thereof that the provisions of this ordinance be put into full  
90 force and effect, an emergency is hereby declared to exist by reason whereof this ordinance shall  
91 take effect and be in full force from and after its passage as provided by law.

92

93 EMERGENCY CLAUSE PASSED AND APPROVED by the Mayor and the Council of the  
94 City of Midwest City,

95

96 Oklahoma, this \_\_\_\_\_ day of \_\_\_\_\_, 2020

97

98

99

CITY OF MIDWEST CITY, OKLAHOMA

100

101

102

\_\_\_\_\_  
MATTHEW D. DUKES II, Mayor

103

104

105 ATTEST:

106

107

108

\_\_\_\_\_  
SARA HANCOCK, City Clerk

110

111

112 APPROVED as to form and legality this \_\_\_\_\_ day of \_\_\_\_\_, 2020

113

114

115

\_\_\_\_\_  
HEATHER POOLE, City Attorney

116

1  
2  
3 **ORDINANCE NO. 3406**

4 **AN ORDINANCE AMENDING THE MIDWEST CITY MUNICIPAL CODE, CHAPTER**  
5 **11, CITY EMERGENCY MANAGEMENT, SECTION 11-3 EMERGENCY OPERATING**  
6 **HOURS AND PROCEDURES FOR COMMERCIAL ENTERPRISES; PROVIDING FOR**  
7 **REPEALER AND SEVERABILITY AND DECLARING AN EMERGENCY.**

8 BE IT ORDAINED BY THE CITY OF THE CITY OF MIDWEST CITY, OKLAHOMA:

9  
10 **EMERGENCY ORDINANCE**

11  
12 **SECTION 1.** The Midwest City Municipal Code, Chapter 11, City Emergency Management,  
13 Section 11-3 Emergency Operating Hours and Procedures for Commercial Enterprises is hereby  
14 added as follows:

15  
16 **Sec. -1. – Emergency Operating Hours and Procedures for Food Establishments.**

17 1. During the course of the State of Emergency declared by the City of Midwest City on  
18 March 16, 2020, all businesses should comply with the requirements of this section until the City  
19 Manager declares that the State of Emergency has ended for the City of Midwest City.

20 2. The City of Midwest City shall be implementing the Governor’s “Open Up and Recover  
21 Safely (OURS)” plan which was implemented by the Governor’s Order of April 24, 2020.

22 3. All personal care service businesses allowed to reopen on April 24, 2020 under the  
23 OURS plan shall implement the safety guidelines for employees and customers outlined in the  
24 OURS plan as well as require employees to wear masks and gloves when interacting with  
25 customers and other employees. When other personal care businesses, dining facilities and other  
26 non-essential businesses which are allowed to reopen on or around May 1, 2020 in the OURS  
27 plan, those businesses shall implement the safety guidelines set out in the OURS plan and also be  
28 required to have employees wear gloves and masks while interacting with customers and fellow  
29 employees. Other non-essential businesses and activities allowed to resume on or around May  
30 15, 2020 in the OURS plan, shall also follow the safety guidelines set out in the OURS plan and  
31 require employees to wear masks and gloves when interactions occur between other employees  
32 and customers. 4 The opening dates listed above, and the safety criteria for the businesses set  
33 out for each date, may be modified as needed by the City Manager or his designee.

34 5. The owner and/or operator of any establishment upon which premises any of the  
35 violations of this ordinance occurs will be in violation for allowing such offense to occur upon  
36 the premises and shall be fined an amount not to exceed \$200.00 and may have its municipal  
37 license or permit revoked or suspended for a period of time up to one (1) year. Any patrons or  
38 staff present may also be cited for any violations of this subsection and shall be fined an amount  
39 not to exceed \$200.00 for each such violation.

40 6. The above restrictions shall not apply to blood drives held by the American Red Cross or  
41 Oklahoma Blood Institute provided social distancing practices are implemented to the maximum  
42 extent practicable in the administration of such drives.

43

44 **SECTION 2. REPEALER.** All ordinances or parts of ordinances in conflict herewith are  
45 hereby repealed.

46

47 **SECTION 3. SEVERABILITY.** If any section, sentence, clause or portion of this ordinance is  
48 for any reason held to be invalid, such decision shall not affect the validity of the remaining  
49 portions of the ordinance.

50

51 PASSED AND APPROVED by the Mayor and Council of the City of Midwest City, Oklahoma,  
52 on the \_\_\_\_ day of \_\_\_\_\_, 2020.

53

54

THE CITY OF MIDWEST CITY, OKLAHOMA

55

56

\_\_\_\_\_  
MATTHEW D. DUKES, II, Mayor

57

58

59 ATTEST:

60

61

\_\_\_\_\_  
SARA HANCOCK, City Clerk

62

63

64 APPROVED as to form and legality this \_\_\_\_ day of \_\_\_\_\_, 2020.

65

66

\_\_\_\_\_  
HEATHER POOLE, City Attorney

67

68

69 **SECTION 4. EMERGENCY.** The City Council declares this ordinance to be an emergency, it  
70 being immediately necessary for the preservation of the peace, health and safety of the City of  
71 Midwest City and the inhabitants thereof that the provisions of this ordinance be put into full  
72 force and effect, an emergency is hereby declared to exist by reason whereof this ordinance shall  
73 take effect and be in full force from and after its passage as provided by law.

74

75 EMERGENCY CLAUSE PASSED AND APPROVED by the Mayor and the Council of the  
76 City of Midwest City,

77

78 Oklahoma, this \_\_\_\_ day of \_\_\_\_\_, 2020

79

80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98

CITY OF MIDWEST CITY, OKLAHOMA

---

MATTHEW D. DUKES II, Mayor

ATTEST:

---

SARA HANCOCK, City Clerk

APPROVED as to form and legality this \_\_\_\_\_ day of \_\_\_\_\_, 2020

---

HEATHER POOLE, City Attorney