

RESOLUTION NO. 79-2020

RESOLUTION OF THE CITY COUNCIL, CITY OF ABILENE, TEXAS, FURTHER MODIFYING ITS EXTENSION OF DECLARATION OF DISASTER ISSUED ON MARCH 30, 2020.

WHEREAS, on March 16, 2020, the Mayor of the City of Abilene, by proclamation, issued a Declaration of Local Disaster; and

WHEREAS, on March 16, 2020, the Mayor of the City of Abilene issued his Order prohibiting any gathering of 250 or more persons within the city limits beginning March 18, 2020; and

WHEREAS, on March 18, 2020, the Mayor of the City of Abilene issued his First Modified Order prohibiting any gathering of 50 or more persons within the city limits beginning at 8:00 p.m., March 22, 2020, and of 10 or more beginning at 5:00 p.m. on the day that the Abilene-Taylor County Public Health District announces the confirmation of a positive COVID-19 test result; and

WHEREAS, on March 19, 2020, the Governor of the State of Texas issued his Executive Order GA-08, effective 11:59 p.m. on March 20, 2020, and continuing until 11:59 p.m. on April 3, 2020, subject to extension; and

WHEREAS, on March 23, 2020, the City Council issued its Resolution Renewing and Continuing the Mayor's Declaration of Disaster Issued on March 16, 2020, which prohibited the social gathering of more than 10 persons; and

WHEREAS, on March 30, 2020, the City Council issued its Resolution Modifying its Extension of Declaration of Disaster, which created a limited shelter in place through 11:59 p.m., April 14, 2020; and

WHEREAS, on March 31, 2020, the Governor of the State of Texas issued his Executive Order GA-14, effective until April 30, 2020, which defined "essential services" for the entire state, ordered Texans to minimize social gatherings and minimize in-person contact with people who are not in the same household, and required remote telework for all services except for "essential services" that cannot be provided through remote telework; and

WHEREAS, because of the continuing risk of the rapid spread of the COVID-19 virus, the need to protect the most vulnerable members of the community, the intent to ensure that the maximum number of people self-isolate in their places of residence to the maximum extent feasible, while enabling essential services and commerce to continue, and the desire to slow the spread of COVID-19 to maximum extent possible, this Order is required; and

WHEREAS, this Order is issued based on evidence of increasing occurrence of COVID-19 within the City of Abilene and Taylor County, scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically; and

WHEREAS, the City Council has determined that extraordinary and immediate measures must continue to be taken to respond quickly to prevent and slow down community spread of COVID-19 in the City of Abilene; and

WHEREAS, the City Council finds that it is in the public interest to authorize additional authority as described herein pursuant to the Texas Disaster Act of 1975, as amended, Texas Government Code, and provide rules to protect the health of persons in the City of Abilene, pursuant to the Texas Government Code and Texas Health and Safety Code.

NOW THEREFORE, IT IS HEREBY RESOLVED AND DECLARED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

1. The foregoing recitals as incorporated herein and made findings of fact.
2. That the City Council, effective immediately, hereby renews and continues the local state of disaster for the City of Abilene, Texas, pursuant to Section 418.108(b) of the Texas Government Code.
3. Pursuant to Section 418.108(c) of the Government Code, this renewal and continuation of the declaration of a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the City Secretary.
4. Pursuant to Section 418.108(d) of the Government Code, this renewal and continuation of the declaration of a local state of disaster continues activation of the emergency management plan for the City of Abilene. The furnishing of aid and assistance under the declaration is hereby authorized. The appropriate preparedness and response aspects of the plan are continued.
5. The use of all available resources of the City of Abilene that are reasonably necessary to cope with this disaster are hereby authorized.
6. To the extent permitted by law, any local ordinance or administrative rule prescribing the procedures for conduct of City business or any local ordinance or administrative rule that would in any way prevent, hinder, or delay necessary action in coping with this disaster, including any local ordinance or administrative rule regarding contracting or procurement with would impede the City's emergency response necessary to cope with this declared disaster, are hereby suspended, but only for the duration of this declared local disaster and only for that limited purpose.
7. Pursuant to Section 418.108(g) of the Government Code, the City of Abilene may control ingress to and egress from a disaster area within the incorporated limits of the City of Abilene and control the movement of persons and the occupancy of premises in that area.

8. Pursuant to Section 122.006 of the Texas Health and Safety Code, the City of Abilene may adopt rules to protect the health of persons in the municipality, including quarantine rules to protect the residents against communicable disease.
9. The intent of this Order is to protect the physical health and well-being of City of Abilene residents, to protect the financial health and well-being of City of Abilene residents and businesses, and to slow the spread of COVID-19 to the maximum extent possible while safeguarding the Constitutional liberties of City of Abilene residents by utilizing the least restrictive means possible and encouraging the highest level of personal responsibility.
10. Persons who are sick and currently experiencing common COVID-19 symptoms have a responsibility to take actions necessary to protect the physical health and well-being of others.

Any person who is sick or currently experiencing common COVID-19 symptoms, including fever, cough, or shortness of breath, is hereby ORDERED to stay home until such time that:

- (a) he or she has had no fever for at least 72 hours without the use of medicine that reduces fevers; and
- (b) his or her other symptoms have improved (for example, when the cough or shortness of breath has improved); and
- (c) at least 14 days have passed since the symptoms first appeared.

This order does not prohibit any person from leaving his or her home to seek necessary medical or emergency care. Persons are encouraged to call ahead to their medical providers to let them know they are coming.

If any person in a household has tested positive for COVID-19, all persons in the household are hereby ORDERED to stay home. Members of the household may not travel to work, school, or any other community function until released from quarantine by the health authority. This order does not prohibit any person from leaving his or her home to seek necessary medical or emergency care. Persons are encouraged to call ahead to their medical providers to let them know they are coming.

11. All persons in the City of Abilene are hereby ORDERED to stay home, except for travel related to Essential Activities. Essential Activities means any action or effort that is necessary for gainful employment or for the financial welfare of their family. It also means any activity necessary for obtaining medical care, food, shelter or clothing that may be necessary for the safety and well-being of themselves or their family. It also means any action necessary for the preservation of a person's mental or spiritual health, including attending any religious gathering.

12. Persons at higher risk for severe illness have a responsibility to take actions necessary to protect their own personal physical health and well-being and to mitigate their own risk and potential exposure to COVID-19. Any person who believes he or she is at higher risk for severe illness and who believes he or she may be compromised from exposure to COVID-19 is hereby ORDERED to stay home as long as this order remains in place or until the person determines he or she is no longer at higher risk for severe illness.

This order does not prohibit any person from leaving his or her home to seek necessary medical or emergency care. Persons are encouraged to call ahead to their medical providers to let them know they are coming.

13. To protect the financial health and well-being of City of Abilene residents, including those who are the most economically vulnerable and disadvantaged, we have a shared responsibility to take actions necessary to prevent the spread of COVID-19, as well as to protect and promote the ability of all persons to provide for their own financial and material needs, including food, shelter, clothing, and healthcare.

All businesses and employers are hereby ORDERED to take actions necessary to prevent the spread of COVID-19, to increase social distancing in the normal course of business activities, and to provide for a safe and healthy work environment.

All persons are hereby ORDERED to take actions necessary to prevent the spread of COVID-19 and to increase social distancing in the normal course of business activities. Social distancing is generally understood to mean staying at least six feet away from other people, avoiding mass gatherings, working from home if possible, canceling or postponing large meetings, and not shaking hands. Where social distancing is not possible in the normal course of business activities, extreme care should be taken to reduce the risk of exposure to, and transmittal of, germs and COVID-19.

Pursuant to Governor Greg Abbott's Executive Order GA-14, every person shall minimize social gatherings and shall minimize in-person contact with people who are not in the same household. Furthermore, persons shall avoid eating or drinking at bars, restaurants, and food courts, or visiting gyms, massage establishments, tattoo studios, piercing studios, or cosmetology salons. However, the use of drive-thru, pickup, or delivery options for food and drinks is allowed and highly encouraged throughout the limited duration of his Executive Order.

Except as otherwise specifically provided in the Governor's Executive Order GA-14 and this Declaration, all businesses, jobs, and workers are essential to the financial health and well-being of our local economy and therefore are essential to the financial health and well-being of City of Abilene residents. Persons who are employed need to stay employed. Persons who lack employment need to gain employment. Businesses that are able to remain

open need to remain open, provided that the following businesses, due to the close personal nature of their services, are hereby ORDERED to close for the duration of this order:

- (a) Hair salons, hair stylists, barber shops, nail salons, tattoo parlors, piercing businesses, tanning salons and all similar personal grooming related businesses that require close personal contact; and
- (b) Food truck gatherings of two or more food trucks; and
- (c) Game rooms, bowling alleys, movie theaters, arcades, miniature golf courses, gyms, fitness centers, or other similar entertainment venues; and
- (d) Sexually Oriented Businesses; and
- (e) Smoking rooms in tobacco stores (it is the intent to limit the closure only to the smoking rooms and not the sale of tobacco products).
- (f) To the extent the Governor of Texas has closed golf courses, they are closed within the city limits of Abilene.
- (g) Tennis courts (public and private), provided that tennis courts wholly contained within a person's residential premise are not required to close.

The Mayor is authorized to order the closure of additional businesses without further Council action if, in his opinion, the business poses an imminent risk to the public's health, safety and welfare.

Employers, employees, and customers have a shared responsibility to promote public health in the normal course of business activities. Businesses are hereby ORDERED to limit the number of customers in their commercial establishments in order to maintain good social distancing requirements as further defined in Section 14 of this order. Retail stores has the additional restrictions:

- (h) Retail stores are ORDERED to reduce their maximum building occupancy by 50%; and
- (i) Retail stores are ORDERED to further reduce their total building occupancy, as may be required, by the number necessary to maintain good social distancing requirements, as further defined in Section 14 of this order, should the 50% building occupancy reduction prove ineffective in maintaining social distancing requirements; and

- (j) Retail stores are ORDERED to control the ingress and egress of their buildings so that they maintain good social distancing requirements, as further defined in Section 14 of this order, inside their buildings.

The Mayor is authorized by order to further limit the number of persons allowed in any business without further Council action if, in his opinion, the business has failed to exercise the necessary responsibility to limit their customer's ingress or egress on their own.

The City Manager is authorized without further Council action to enforce these provisions to the fullest extent allowed by law, including, but not limited to, using the Abilene Police Department or other City Departments to control the number of persons entering a building as is necessary to maintain adequate social distancing inside the building.

- 14. For purposes of this Declaration and Order, "Social Distancing Requirements" includes maintaining at least six-foot social distancing from other individuals, washing hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, and not shaking hands.
- 15. When people need to leave their places of residence, they should at all times as reasonably possible comply with Social Distancing Requirements as defined in Section 14.
- 16. All public, private and commercial laboratories operating within the City of Abilene and performing COVID-19 testing shall report by 5:00 p.m. each day for the prior 24-hour period to the Abilene-Taylor County Public Health District the following information:

- (a) The number of COVID-19 tests performed;
- (b) The number of positive COVID-19 tests; and
- (c) The patient names and demographic information of positive COVID-19 tests.

This information will be used solely for public health purposes to monitor the testing conducted in the City of Abilene, and mitigate and contain the spread of COVID-19.

- 17. That any City ordinance or regulation imposing a time requirement for payment, filing or appealing a decision, may be extended by the Mayor without further confirmation by the City Council.
- 18. That the Mayor may suspend or modify any other ordinance or regulation of the City of Abilene for a period of not more than seven days from the date of this resolution unless continued or renewed by the City Council.

19. That City Council meetings shall be rescheduled as posted and may be continued in accordance with alternate measures as permitted by law.
20. That all other committee, commission or board meetings of the City of Abilene are suspended except as required to consider applications subject to state law-imposed deadlines, or as may be deemed reasonable and necessary for the public good as determined by the Mayor.
21. That the City Manager or designee of the City Manager is authorized, without further approval of the City Council, to:
- (a) Make application for local, state and federal assistance as necessary and/or applicable;
 - (b) Accept on behalf of the City services, gifts, grants, equipment, supplies, and/or materials whether from private, nonprofit, or governmental sources;
 - (c) Enter into Interlocal cooperation agreements or memorandums of understanding with other cities, counties, or jurisdictions to provide for law enforcement assistance or other shared services to assist in this Resolution or the COVID-19 pandemic;
 - (d) Contract for expenditures for budgeted items and emergency expenditures in an amount not to exceed \$250,000; and
 - (e) Defer any fines or fees imposed by the City.

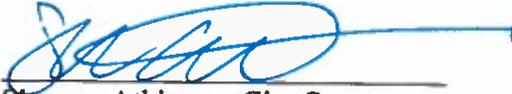
After cessation of this emergency and state of disaster, the City Manager shall provide the City Council a list of all actions taken under this paragraph.

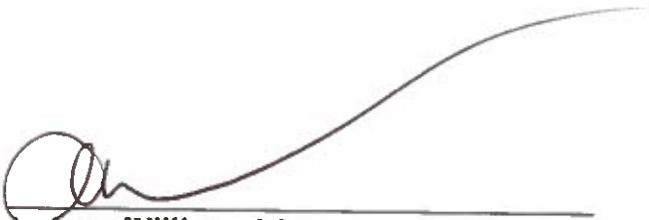
22. That although not required by law and out of an abundance of caution, the City Manager is authorized (and any prior acts in response to the COVID-19 pandemic are ratified):
- (a) Close, including closure to the public, of any City offices, facilities, or properties, including parks, playgrounds, or playground equipment; and
 - (b) Provide city services by means other than in-person delivery, such as accepting permit applications online or by mail only, and/or to cease any city service that are not required by state or federal law.
23. That any ordinances, rules, or regulations of the City of Abilene, Texas, that conflict with this Resolution are hereby suspended, such suspension to remain in effect until the state of disaster is terminated or until there is a subsequent Resolution of this Council, whichever occurs first.
24. That pursuant to Section 418.020(d) of the Texas Government Code, the City of Abilene is authorized to:

- (a) Temporarily or permanently acquire by lease, purchase, or other means sites required for installation of temporary housing units or emergency shelters for disaster victims; and
 - (b) Enter into arrangements necessary to prepare or equip the site to use the housing units or shelters, including arrangements for the purchase of temporary housing units or shelters and the payment of transportation charges.
- 25. That failure to comply with any of the provisions of this Order constitutes an imminent threat to public health.
- 26. That a violation of this Order pertaining to restricting gatherings to 10 or less persons shall be an offense and shall be punishable by a fine not to exceed \$1,000 or confinement in jail up to 180 days. That a violation of any other provision of this Order shall be an offense and shall be punishable by a fine only not to exceed \$1,000. That this declaration also hereby authorizes the use of any other lawfully available enforcement tools.
- 27. That any violation of this Resolution, Declaration and Order can be enjoined by the City of Abilene by a suit filed in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this Resolution, Declaration and Order or in the Code of Ordinances, City of Abilene, Texas.
- 28. That nothing in this Resolution, Declaration and Order shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or prior ordinance; nor shall any legal right or remedy of any character be lost, impaired, or affected by this Resolution.
- 29. All provisions of this Resolution, Declaration and Order should be interpreted to effectuate its intent.
- 30. That this Declaration and Order is effective at noon, Tuesday, April 14, 2020 and continues until 11:59 p.m. April 30, 2020 unless otherwise modified, terminated or extended.
- 31. That the terms and provisions of this Resolution, Declaration and Order shall be deemed to be severable and that if any section, subsection, sentence, clause, phrase or word herein shall be declared to be invalid or unconstitutional, the same shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word herein, and the remainder of this Resolution, Declaration and Order shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

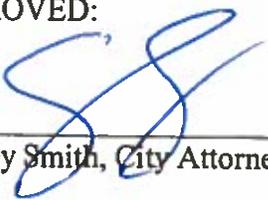
ADOPTED this 13th day of April, 2020.

ATTEST:


Shawna Atkinson, City Secretary


Anthony Williams, Mayor

APPROVED:


Stanley Smith, City Attorney

