

**FOURTH AMENDED ORDINANCE NO. 2020-08-4A OF THE CITY OF MARFA
CONTINUATION OF DISASTER DECLARATION**

Fourth Amended Ordinance Continuing Disaster Declarations and Instituting and Continuing Certain Emergency Measures Due to a Public Health Emergency in the City of Marfa and Conforming with Governor Abbott's Executive Order GA-29 and subsequent orders.

WHEREAS, on March 13, 2020, the Governor of the State of Texas declared a state of disaster and the President of the United States of America declared a national emergency in relation to the pandemic spread of COVID-19; and

WHEREAS, by declaration issued on March 19, 2020, City of Marfa Mayor Manuel V. Baeza declared a local state of disaster for the City of Marfa, Texas, which was continued and extended by the Marfa City Council through April 24, 2020; and on April 2, 2020, Mayor Baeza issued his First Supplemental Disaster Declaration, which was continued and extended by the Marfa City Council through April 30, 2020; and

WHEREAS, on April 27, 2020, Governor Abbott released his Executive Order GA-18 and the Governor's Report to Open Texas, and specified that GA-18 superseded all local orders; and on May 5, 2020, Governor Abbott released Executive Order GA-21, superseding GA-18 and expanding reopened services; and on June 3, Governor Abbott issued Executive Order GA-26, instituting Phase 3 of opening Texas; and

WHEREAS, in response to GA-18, on April 29, 2020, the Marfa City Council allowed Ordinance #2020-03-2A (Shelter in Place) to expire according to its terms; and continued and renewed Ordinance #2020-02-2A (Disaster Declaration) until May 15, 2020; and on May 12, 2020 passed Ordinance 2020-08 to continue the disaster declaration through June 11, 2020 in keeping with Governor Abbott's Executive Orders, and that Ordinance was amended and extended by the Marfa City Council in the Third Amended Ordinance No. 2020-08-3A through 11:59 p.m. on September 15, 2020, and is further amended and extended in this Fourth Amended Ordinance No. 2020-08-4A through 11:59 p.m. on October 15, 2020.

WHEREAS, Marfa had no confirmed cases of COVID-19 from March through May, 2020; and

WHEREAS, on June 9, 2020, there was one confirmed case and four presumptive cases of COVID-19 within the City of Marfa; and

WHEREAS, on July 14, 2020, there were fifteen (15) confirmed cases of COVID-19 within the city of Marfa, with four (4) active cases and eleven (11) recovered cases; and

WHEREAS, as of August 11, 2020, there are twenty-six (26) confirmed cases of COVID-19 within the city of Marfa, with five (5) active cases and twenty-one (21) recovered cases; and

WHEREAS, as of September 7, 2020, there have been a total of 36 confirmed cases of COVID-19 within the City of Marfa, with 5 active cases and 31 recovered cases; and

WHEREAS, there was a continued increase in COVID-19 cases in the State of Texas through June and July, 2020, leading Governor Abbott to issue Executive Order GA-28 to scale back the re-opening of Texas and close bars and rafting/tubing operations, and Executive Order GA-29 to require individuals to wear facial coverings in all indoor and outdoor public places in Texas, punishable by up to a \$250 fine per violation; and

WHEREAS, the City of Marfa is an international tourist destination with very limited medical facilities and no hospital, with the closest hospital being 26 miles away in Brewster County; and

WHEREAS, the Big Bend Regional Medical Center has only four (4) ICU beds for an immense multi-county service area, and Odessa Medical Center has refused to accept COVID-19 transfer patients from Big Bend Regional; and

WHEREAS, emergency measures are therefore necessary to protect the health and welfare of Marfa residents from the spread of COVID-19, especially for the elderly and compromised individuals who are at highest risk; and

WHEREAS, pursuant to Texas Health and Safety Code §121.003(a), the governing body of a municipality may enforce any law that is reasonably necessary to protect public health; and

WHEREAS, in response to the dramatic upturn of cases in Texas and the increase of cases in the tri-county area of Brewster, Jeff Davis and Presidio counties, the Marfa City Council hereby authorizes a new and updated Local Disaster Declaration Extension Order under their emergency powers granted under Chapter 418 of the Texas Government Code; and

WHEREAS, the Marfa City Council hereby extends the Disaster Declaration for the City of Marfa until 11:59 p.m. on October 15, 2020:

NOW, THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF MARFA, TEXAS:

That the following measures are in effect for the duration of this Order:

1. CONTINUATION OF DISASTER DECLARATION.

Mayor Baeza's declaration of local state of disaster due to public health emergency dated March 19, 2020 and First Supplemental Emergency Disaster Declaration dated April 3, 2020 are hereby extended, continued, and renewed for the City of Marfa pursuant to Texas Government Code §418.108(b).

This Fourth Amended Ordinance 2020-08-4A shall supersede all previous Disaster Declaration Ordinances previously issued by the Marfa City Council except for Fourth Amended Ordinance No. 2020-09-4A (relating exclusively to city buildings and services) and Fourth Amended Ordinance No. 2020-10-4A (relating exclusively to the wearing of face coverings). This Fourth Amended Ordinance No. 2020-08-4A shall become effective at 12:01 a.m. on

September 16, 2020 and shall remain in effect until 11:59 p.m. on October 15, 2020 unless modified by official action of the Mayor of Marfa, the Marfa City Council, the Presidio County Judge, the Presidio County Commissioners Court, or the Governor of the State of Texas.

Any subsequent Executive Orders issued by Governor Abbott shall supersede conflicting provisions herein for the duration of this Ordinance.

2. CONFORMITY WITH GA-28, GA-29, AND SUBSEQUENT EXECUTIVE ORDERS OF GOVERNOR ABBOTT.

This Ordinance continues the disaster declaration for The City of Marfa. This Ordinance also incorporates by reference Governor Abbott's most recent Executive Orders GA-28 and GA-29.

Governor Abbott's Executive Orders may be found at:

<https://lrl.texas.gov/legeLeaders/governors/displayDocs.cfm?govdoctypeID=5&governorID=45>

This Ordinance hereby incorporates GA-28, GA-29, and all subsequent Executive Orders issued by Governor Abbott through 11:59 p.m. on October 15, 2020. All businesses, services, gatherings, and events within the City of Marfa shall operate within the parameters and occupancy levels as set out by Governor Abbott in GA-28 and subsequently issued Executive Orders, and all individuals shall wear facial coverings as required in GA-29 and as specified in City of Marfa Fourth Amended Ordinance No. 2020-10-4A.

3. MINIMUM STANDARD HEALTH PROTOCOLS.

All opened businesses, services, gatherings, and events in the City of Marfa shall operate in accordance with the Minimum Standard Health Protocols as set out in the Governor's Report to Open Texas, found on pages 20-43 of the report, which can be found here:

<https://gov.texas.gov/uploads/files/organization/opentexas/OpenTexas-Report.pdf>

The percentage of capacity shall be calculated in accordance with the standards promulgated by the National Fire Protection Association of 15 square feet per person based on the gross available floor space. In accordance with GA-26, staff members are not included in determining operating levels, except for manufacturing services and office workers.

The list of businesses/services/gatherings/events and applicable occupancies may be updated from time to time through new Executive Orders by Governor Abbott, and shall be automatically incorporated herein upon issuance.

4. FACE COVERINGS AND SOCIAL DISTANCING.

In accordance with GA-29 and City of Marfa Third Amended Ordinance No. 2020-10-3A, all Marfa residents and visitors shall wear a facial covering in both outdoor and indoor

public spaces when six feet of social distancing is not possible, subject to the exemptions in GA-29. Additionally, all businesses within the Marfa city limits shall develop, display, and implement a Health and Safety Plan that requires, at a minimum, the wearing of facial coverings by customers and employees when six feet of social distancing is not possible.

Marfa residents and visitors shall implement social distancing while conducting business outside of the household, and shall practice good hygiene, environmental cleanliness, and sanitation to help prevent the spread of COVID-19.

5. VIOLATIONS AND PENALTIES.

- A. In accordance with Texas Government Code §418.173, a person who knowingly or intentionally violates this declaration commits an offense, punishable by a fine up to \$1,000.00.
- B. Businesses that violate the Health & Safety Code requirement or face covering requirement are subject to a fine of up to \$1,000 per violation.
- C. Individuals who violate the face covering requirement are subject to a fine of up to \$250.00 per violation beginning with the second offense.
- D. In accordance with Texas Penal Code §12.05 and Governor Abbott's statewide disaster declaration, the following crimes are enhanced (increased) by one degree if committed during the time of disaster declaration:
 - Assault
 - Arson
 - Robbery
 - Burglary
 - Burglary of coin-operated machines
 - Burglary of vehicles
 - Criminal Trespass
 - Theft

6. SEVERABILITY.

It is hereby declared to be the intention of the Marfa City Council that the phrases, sentences, paragraphs, and sections of this order are severable. If any part of this order shall be superseded by Executive Order of the Governor of the State of or by Order of the Presidio County Judge or Commissioners Court, or ruled unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutional phrase, sentence, paragraph, or section shall be severed from the order by operation of the judgment; however, this unconstitutionality shall not affect the remaining phrases, sentences, paragraphs, and sections, which shall remain in full force and effect.


THIS FOURTH AMENDED ORDINANCE NO. 2020-08-4A IS HEREBY APPROVED, ORDERED, AND ADOPTED this the 8th day of September, 2020, by a vote of 5 Ayes and 0 Nays.


Hon. Manuel V. Baeza, Mayor

ATTEST:


Chelsea Smith, City Secretary

APPROVED AS TO FORM:


Teresa L. Todd, City Attorney

