

**FIRST AMENDED CITY OF MARFA ORDINANCE NO. 2020-03A  
SHELTER-IN-PLACE ORDER**

**WHEREAS**, in conjunction with the National Emergency Declaration issued by President Trump and Governor Abbott's Declaration of Disaster on March 13, 2020, and out of an abundance of caution to limit or reduce the spread of COVID-19 in the City of Marfa; and

**WHEREAS**, it is necessary to ensure that the maximum number of people self-isolate in their places of residence to the maximum extent feasible, while enabling essential services to continue, to slow the spread of COVID-19 to the maximum extent possible; and

**WHEREAS**, despite the current state of public health crisis, people will need to leave self-isolation to obtain or perform vital services or to otherwise facilitate authorized activities necessary for continuity of social and commercial life. As such, persons should at all times as reasonably possible comply with Social Distancing Requirements as defined by the Centers for Disease Control; and

**WHEREAS**, the Marfa City Council pursuant to the Texas Government Code § 418 et seq. issued this following Mandatory Citywide Shelter in Place Order on March 26, 2020; and

**WHEREAS**, on April 2, 2020, Mayor Baeza issued his First Supplemental Emergency Disaster Declaration enacting three additional measures to prevent the spread of COVID-19 in Marfa, Texas: (1) requirement for 14-day self-quarantine; (2) prohibition on door-to-door sales or solicitations; and (3) regulating long-term rentals (rentals of over 30 days) and all rental advertising; and

**WHEREAS**, Mayor Baeza also updated the following two measures in response to Governor Abbott's Executive Order GA-14, in order to align city mandates with state mandates: (1) church services; and (2) determinations regarding essential personnel and businesses; and

**WHEREAS**, on April 8, 2020 the Marfa City Council voted to extend Mayor Baeza's Disaster Declaration and First Supplemental Disaster Declaration, and to incorporate these additional measures into Ordinance 2020-02 (Order Continuing Disaster Declaration) and Ordinance 2020-03 (Shelter in Place Order) as appropriate; and

**WHEREAS**, this Ordinance is hereby amended to include provisions regarding determination of essential personnel and businesses (Section B) and requirement to self-quarantine (Section D); and

**WHEREAS**, the following emergency measures, including the two updated measures in Sections B and D herein, are continued and extended by the Marfa City Council and shall remain in effect through 11:59 p.m. on April 30, 2020:

**FAILURE TO COMPLY WITH ANY OF THE PROVISIONS OF THIS ORDER  
CONSTITUTES AN IMMINENT THREAT TO PUBLIC HEALTH:**

**A. SHELTER IN PLACE ORDER**

Except as otherwise directed in this order, all individuals currently living within the city limits of Marfa, Texas SHALL SHELTER AT THEIR PLACE OF RESIDENCE FOR A PERIOD OF 14 DAYS. All public and private gatherings of any number of people occurring outside a household or living unit are prohibited, except for the limited purposes as expressly permitted herein. Nothing in this Order prohibits the gathering of members of a household or residence.

Except as otherwise directed in this order, all employees of the City of Marfa who do not reside in the City of Marfa are ORDERED to shelter in their county of residence and work for the City of Marfa remotely.

To the extent individuals are using shared or outdoor spaces, they must at all times as reasonably possible maintain social distancing of at least six (6) feet from any other person when they are outside their residence.

The shelter in place mandate does not apply to the person(s) engaging in the following activities:

**1) Essential Personal Activities**

a) "Essential Personal Activities" means:

- i) To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members (including, but not limited to, pets), such as, by way of example only and without limitation, obtaining medical supplies or medication, visiting a health care professional, or obtaining supplies they need to work from home; ii) To obtain necessary services or supplies for themselves and their family, household members, and pets, or to deliver those services or supplies to others, such as, by way of example only and without limitation, canned food, dry goods, fresh fruits and vegetables, pet food and supply, fresh meats, fish, and poultry, and any other household consumer products, and products necessary to maintain the safety, sanitation, and essential operation of residences; iii) To engage in outdoor activity, provided the individuals comply with Social Distancing Requirements, such as, by way of example and without limitation, walking, hiking, biking, or running; iv) To perform work providing essential products and services at an Essential Business or to otherwise carry out activities specifically permitted in this Order, including Minimum Basic Operations; and/or v) "Minimum basic operations" means operations consisting exclusively of employees or contractors performing activities at their own residences (i.e., working from home). vi) To care for a family member or pet in another household.

**2) Obtaining Healthcare Operation Services**

a) "Healthcare Operations" means:

i) A health care provider or facility including hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers, or any related and/or ancillary healthcare services, and veterinary care and all healthcare services provided to animals. ii) "Healthcare Operations" does not include fitness and exercise gyms or similar operations/facilities.

### **3) Performing Essential Infrastructure Operations**

a) "Essential Infrastructure Operations" means:

i) any services or performance work necessary to the operations and maintenance of public works construction, construction of housing, airport operations, water, sewer, gas, electrical, oil refining, roads and highways, public transportation, solid waste collection and removal, internet, and telecommunications systems and support (including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services). ii) To the extent possible, such operations and operators shall carry out those services or work, in compliance with Social Distancing Requirements.

iii) Transportation, maintenance, repairs of all transportation related equipment including but not limited to vehicles.

### **4) Performing or Accessing Essential Governmental Functions**

a) "Essential Government Functions" means:

i) duties, operations, or functions performed by:

- (1) First responders;
- (2) Emergency management personnel;
- (3) Emergency dispatchers;
- (4) Prosecutors, assistants, and staff;
- (5) Judges and Court personnel;
- (6) Law enforcement personnel;
- (7) School Personnel to include and limited to essential staff as identified by individual school systems. Said person(s) are authorized to leave their residence for the purpose of carrying out established protocols for meal and instructional packet distribution or pickup;
- (8) Families of school aged children for the limited purpose of obtaining meal and instructional packets for their children from their local school systems; and
- (9) Other individuals the Mayor deems necessary to perform essential services.

b) Each governmental entity shall identify and designate appropriate employees or contractors to continue providing and carrying out any Essential Governmental Functions.

c) All Essential Governmental Functions shall be performed in compliance with Social

Distancing Requirements, to the extent possible.

## 5) To Operate Essential Businesses

a) "Essential Businesses" means and/or includes:

- i) Healthcare Operations and Essential Infrastructure Operations;
- ii) Grocery stores, liquor stores, certified farmers' markets, farm and produce stands, supermarkets, food banks, convenience stores, and other establishments engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, pet food and supply, fresh meats, fish, and poultry, and any other household consumer products (such as cleaning and personal care products). This includes stores that sell groceries and also sell other non-grocery products such as alcohol, and products necessary to maintaining the safety, sanitation, and essential operation of residences;
- iii) Agriculture, food, and beverage cultivation, processing, and distribution, including but not limited to, farming, ranching, fishing, dairies, creameries, distilleries and breweries in order to preserve inventory and production (not for retail business);
- iv) Businesses that are necessary to supply agriculture, food, and beverage cultivation, processing, and distribution;
- v) Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals;
- vi) Newspapers, television, radio, and other media services;
- vii) Gas stations and auto-supply, auto-repair, and related facilities;
- viii) Banks and related financial institutions;
- ix) Hardware stores;
- x) Plumbers, electricians, exterminators, HVAC repairs and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, Essential Personal Activities, and Essential Businesses;
- xi) Landscaping and pool cleaning services;
- xii) Businesses providing mailing and shipping services, including post office boxes;
- xiii) Laundromats, dry cleaners, and laundry service providers;
- xiv) Restaurants and other related facilities are subject to the following restrictions:
  - (1) May only prepare and serve food for drive-thru, delivery, or carry out;
  - (2) May not operate later than 10 p.m.;
  - (3) Schools and other entities that typically provide free food services to students or members of the public may continue to do so under this Order on the condition that: (a) the food is provided to students or members of the public on a pick-up and take-away basis only; and
  - (4) those providing food shall not permit food to be eaten at the site/location where it is provided;
- xv) Businesses that supply products needed for people to work from home;
- xvi) Businesses that supply other essential businesses with the support or supplies necessary to operate;
- xvii) Businesses that ship or deliver groceries, food, goods or services directly to

residences;

xviii) Airlines, taxis, and other private transportation for hire that provide transportation services necessary for Essential Activities and other purposes expressly authorized in this Order;

xix) Home-based care for seniors, adults, or children;

xx) Residential facilities and shelters for seniors, adults, and children;

xxi) Professional services, such as legal or accounting services, when necessary to assist in compliance with legally mandated activities;

xxii) Funeral homes;

xxiii) Childcare facilities providing services that enable employees exempted in this Order to work as permitted. Childcare facilities must operate under the following mandatory conditions:

(1) Child care facilities must consult and comply with CDC and State Department of Health Services guidelines.

(2) Adult daycare facilities must adhere to CDC, Federal Medicare and Texas Department of Health Services guidelines.

b) Except for Essential Businesses, all operating businesses located within, or using a facility in City of Marfa shall cease all business activities other than minimum basic operations.

c) For the purposes of this Order, “Minimum Basic Operations” include the following, provided that employees comply with Social Distancing Requirements as defined in this Section, to the extent possible, while carrying out such operations:

i) The minimum necessary activities to maintain the value of the business’ inventory, ensure security, process payroll and employee benefits, or for related functions; and/or

ii) The minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences.

All School districts are hereby directed to adopt meal and instructional packet distribution protocols to be implemented simultaneously to minimize the need for families to leave their residence on multiple occasions.

People at high risk of severe illness from COVID-19 and people who are sick are urged to stay in their residence to the extent possible except as necessary to seek medical care. For purposes of this Order, “people at high risk of severe illness from COVID-19” are people who meet the CDC definition of higher risk.

All Essential Businesses are strongly encouraged to remain open. To the greatest extent feasible, Essential Businesses shall comply with Social Distancing Requirements including customers standing in line.

## **B. DETERMINATIONS REGARDING ESSENTIAL PERSONNEL AND BUSINESSES.**

During the time that Governor Abbott's Executive Order GA-14 is in effect, determinations regarding whether an individual or business performs an essential function shall be made based on GA-14 as specified by the Texas Department of Emergency Management and the U.S. Department of Homeland Security as follows:

<https://tdem.texas.gov/essentialservices/>

<https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce>

<https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>

To the extent that GA-14 is silent, then the stricter of the provisions in the Presidio County Judge's Amended Emergency Order dated March 31, 2020 and the City of Marfa Ordinances 2020-02A and 2020-03A in effect at the time shall control, subject to section E below.

## **C. ESSENTIAL TRAVEL**

All travel is prohibited except for Essential Travel that is identified herein:

**1) This Order allows travel into or out of the County to perform Essential Personal Activities, Healthcare Operations, operate Essential Businesses, or maintain Essential Governmental Functions and Essential Infrastructure Operations.**

a) Individuals engaged in any Essential Travel shall comply with all Social Distancing Requirements.

i) "Essential Travel" includes travel for any of the following purposes:

- (1) Any travel related to the provision of or access to Essential Personal Activities, Essential Governmental Functions, Essential Businesses, or Minimum Basic Operations;
- (2) Travel to care for elderly, minors, dependents, persons with disabilities, or other vulnerable persons;
- (3) Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services;
- (4) Travel to return to a place of residence from outside the jurisdiction;
- (5) Travel required by law enforcement or court order; and
- (6) Travel required for non-residents to return to their place of residence outside the County. Individuals are strongly encouraged to verify that their transportation out of the County remains available and functional prior to commencing such travel.

b) Public Transit:

i) Public Transit may only be used for purposes of performing:

- (1) Essential Personal Activities; or
- (2) To travel to and from work
  - (a) To operate Essential Businesses; or
  - (b) Maintain Essential Governmental.

ii) To the greatest extent feasible people riding on public transit shall comply with Social Distancing Requirements.

(1) "Social Distancing Requirements" means:

- (a) includes maintaining at least six-foot social distancing from other individuals;
- (b) washing hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer; (c) covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces; and
- (d) not shaking hands.

**D. REQUIREMENT TO SELF-QUARANTINE**

1. Any non-essential individual, including any visitor, employee, resident, or landowner with a first or second residence in the City of Marfa, is required to self-quarantine for at least fourteen (14) days if:

- 1. coming to the City of Marfa from another state or from an area, county, or city in Texas that has active COVID-19 cases; or
- 2. if the individual has been exposed or has reason to believe he or she may have been exposed at any time during the preceding month to an individual who has contracted the COVID-19 virus.

2. If any non-essential individual subject to quarantine is a member of a household, then the entire household shall be subject to a 14-day quarantine unless the potentially exposed individual isolates himself/herself within the household under CDC guidelines to prevent the potential spread of COVID-19.

3. If essential personnel share a household with individuals who are non-essential, then non-essential family members shall be subject to a 14-day quarantine after the departure of their essential family member unless the essential personnel is isolated within the household during their stay in Marfa to prevent the potential spread of COVID-19.

**E. INCORPORATION AND CONFLICTS**

This Ordinance is issued in accordance with, and incorporates by reference, the National Emergency Declaration, Governor Abbott's Declaration of Disaster, The City of Marfa Mayoral Disaster Declarations, and all subsequent related orders and guidance from these authorities. In

the event of a conflict or apparent conflict between federal, state, and local orders/ordinances, this Ordinance shall control unless superseded by (1) an Executive Order or Declaration by the President; (2) an Executive Order or Declaration by the Governor of Texas; or (3) by a county-wide Declaration by the Presidio County Judge or Order of the Commissioners Court, in that order.

This Order comes after the release of substantial guidance from the Texas Department of Health Services, the Centers for Disease Control and Prevention, and other public health officials in Texas and throughout the United States and around the world, including a variety of prior orders to combat the spread and harms of COVID-19. The Mayor and the Marfa City Council will continue to assess the quickly evolving situation and may modify or extend this Order, or issue additional Orders, related to COVID-19 as may be necessary.

#### **F. SEVERABILITY**

If any provision of this Order to the application thereof to any person or circumstance is held to be invalid, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.



**G. ENFORCEMENT**

Violation of this Order constitutes an imminent threat to public health. The Sheriff, Constables and all Chiefs of police in the County and command staffs of State Law Enforcement Agencies Operating in the County are hereby requested to assist to ensure compliance with and enforce this Order.

**H. PENALTIES**

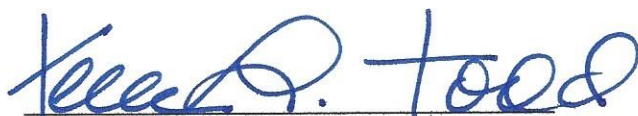
Pursuant to Texas Government Code §418.173, a person that fails to comply with this Order may be assessed a fine not to exceed \$1,000 per violation or confinement in jail for a term not to exceed 180 day. This does not limit or curtail additional civil or criminal penalties under the Texas Health and Safety Code or the Texas Penal Code.

This First Amended Shelter in Place Order shall become effective at 11:59 p.m. on Tuesday, April 8, 2020, and shall remain in place until 11:59 on April 30, 2020 or until it is extended, rescinded, superseded, or amended in writing by the Mayor of the City of Marfa or the Marfa City Council.

**PASSED AND ADOPTED THIS 26<sup>th</sup> DAY OF MARCH, 2020 BY THE CITY COUNCIL OF THE CITY OF MARFA, TEXAS BY A VOTE OF 5 AYES AND 0 NAYS, AND AMENDED AS SPECIFIED HEREIN ON THIS 8<sup>TH</sup> DAY OF APRIL, 2020.**


  
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Hon. Manuel V. Baeza, Mayor

**ATTEST:**

  
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Teresa L. Todd, City Attorney



**APPROVED AS TO FORM:**

  
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Teresa L. Todd, City Attorney