

ORDINANCE NO. 2020-02

**ORDINANCE CONTINUING DISASTER DECLARATION AND
INSTITUTING AND CONTINUING CERTAIN EMERGENCY
MEASURES DUE TO A PUBLIC HEALTH EMERGENCY IN THE CITY
OF MARFA**

AN ORDINANCE INSTITUTING EMERGENCY MEASURES DUE TO A PUBLIC HEALTH EMERGENCY, INCLUDING PROVISIONS REGARDING THE CONTINUED CLOSURE OF BARS, RESTAURANTS, AND HOTELS; THE PREVENTION OF PRICE GOUGING; LIMITING THE NUMBER OF PEOPLE IN GATHERINGS TO NOT MORE THAN TEN; WAIVER OF LATE FEES AND PENALTIES FOR CITY UTILITY CUSTOMERS; RECLASSIFYING SHORT-TERM RENTALS AS RESIDENCES FOR SOLID WASTE DISPOSAL PURPOSES; CONTINUING PENALTY AND ENFORCEMENT PROVISIONS; ENSURING THAT CITY UTILITIES WILL NOT BE DISCONNECTED; AND AUTHORIZING THE MAYOR TO MAKE ADJUSTMENTS TO THESE PROVISIONS WITHIN THE CITY LIMITS OF THE CITY OF MARFA TO PREVENT OR LIMIT THE SPREAD OF COVID-19; AND PROVIDING AN EFFECTIVE DATE.

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 20, 2020, Mayor Manuel V. Baeza declared a local state of disaster for the City of Marfa resulting from a public health emergency; and

WHEREAS, Texas Government Code §418.108(b) states that the Mayoral Declaration will expire unless it is continued by the Marfa City Council not more than seven (7) days from the date of issuance; and

WHEREAS, as of March 25, 2020, the CDC confirmed 82,174 cases of and 1,177 deaths from COVID-19 in the United States, up from 4,226 cases and 75 deaths on March 17, 2020; and

WHEREAS, on the date of passage of this ordinance, there are no confirmed cases of COVID-19 within the City of Marfa; and

WHEREAS, the City of Marfa is an international tourist destination with very limited medical facilities (no hospital and 2 local clinics) and a lack of medical equipment such as ventilators; and

WHEREAS, emergency measures are therefore necessary to protect the health and welfare of Marfa residents from the introduction and spread of COVID-19, especially for our elderly and at-risk populations; 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, Texas Health and Safety Code §122.005 authorizes the Marfa City Council to establish regulations necessary to prevent the introduction of a communicable disease into the municipality; and

WHEREAS, the following emergency measures are hereby ordered by the Marfa City Council to take effect immediately upon issuance and to remain in effect for thirty (30) days, through April 24, 2020:

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

That the following measures are hereby in effect:

1. CONTINUATION OF DISASTER DECLARATION.

That the local state of disaster due to public health emergency is hereby extended for the City of Marfa pursuant to Texas Government Code §418.108(b), to take effect immediately upon issuance of this ordinance and to remain in effect for thirty (30) days, through April 24, 2020.

2. STATE AND FEDERAL GUIDANCE.

The City authorizes the Emergency Management Director (Mayor) or his designee to update, restrict, and promulgate regulations necessary to comply with Federal, State, and Local authorities' guidance in relation to COVID-19.

3. CITY BOARDS AND COMMISSIONS.

A. All City board and commission meetings shall take place via Zoom meetings while this ordinance is in effect.

B. Any boards and commissions that must meet pursuant to state law, should meet pursuant to the means allowed by the Texas Attorney General and institute best practices with regard to social distancing.

4. CITY HALL AND CITY BUILDINGS.

A. City Hall and city buildings (e.g. Library, Visitor Center, Gas Company) shall be closed to the public for the duration of this ordinance. Non-essential city personnel will be requested to work from home.

5. CITY PARKS AND EXERCISE.

- A. City parks shall remain open during regular hours, but are limited to a total of ten (10) people per park at one time. If ten (10) people are already in a city park, then individual(s) who arrive shall wait (practicing social distancing) until enough individuals leave before entering, so that the number of people at no time exceeds ten (10).
- B. Individuals are permitted and encouraged to engage in outdoor activity such as walking (includes pet walking), running, hiking, biking, etc. provided the individuals comply with social distancing requirements. Group contact sports (football, basketball, etc.) are strongly discouraged.

6. HOTELS, MOTELS, AND SHORT-TERM RENTALS.

- A. All hotels, motels, short-term rentals, and short-term rental activities and businesses shall remain closed; however, hotels, motels, and short-term rentals may be utilized exclusively for guests that are active military, law enforcement, National Guard, Texas National Guard, emergency services personnel, health care professionals, and local residents subject to quarantine or self-quarantine.
- B. For purposes of this section, “local resident” is defined as a permanent resident of the tri-county area (Brewster, Jeff Davis, and Presidio counties) and/or his/her caregiver.

7. LIMITATION ON SIZE OF GATHERINGS.

- A. Individuals shall limit the size of public or private gatherings to no more than ten (10) people in a single space. Those present shall practice social distancing to minimize risk. Funerals will be limited to immediate family only.
- B. A “gathering” refers generally to a scheduled event or common endeavor where more than 10 persons are present in a confined space, room, or area (including indoor and outdoor spaces). For the purposes of clarity, a “gathering” includes services and events held at churches, halls, gyms, and public buildings, but does not include the following spaces:
 - (1) Spaces where persons may be in transit such as a bus terminal;
 - (2) Office spaces or residences;
 - (3) Grocery stores and convenience stores; and
 - (4) Medical facilities.

8. RESTAURANTS AND BARS.

- A. Bars, lounges, and taverns shall remain closed.
- B. Restaurants may remain open pursuant to the following:
 - (1) No in-house dining; restaurants may sell food and alcohol through takeout and delivery only;
 - (2) Restaurants shall disinfect and sanitize commonly touched surfaces and non-food contact surfaces at least once per hour;
 - (3) Restaurants must adopt and implement a screening policy for food handlers and all employees and establish protocols for employees' exclusion if they have a fever greater than 100 degrees and coughing/shortness of breath; and
 - (4) Restaurants must make available and visible COVID-19 preventative print material within the restaurant.

9. PRICE CONTROLS AND LIMITS ON ITEMS PER PURCHASER.

- A. A person or business shall not sell any of the following goods or services for more than the price they charged for the goods or services on March 13, 2020:
 - (1) Groceries, beverages, toiletry articles, cleaning supplies, ice;
 - (2) Construction and building materials and supplies;
 - (3) Charcoal briquettes, matches, candles, lamp illumination, dry batteries, light bulbs, flashlights and hand lanterns;
 - (4) Plumbing and electrical tools and supplies;
 - (5) Apartment, duplex, multi-family dwellings for rent;
 - (6) Motor oil and automotive lubricants;
 - (7) Restaurant meals;
 - (8) Medicine, pharmaceutical and medical equipment and supplies;
 - (9) Blankets, quilts, bedspreads, bed linens, mattresses, bedsprings, towels and toilet paper;
 - (10) Furniture and clothing; and
 - (11) Baby products.
- B. Gasoline and diesel prices are to be based on the previous week's cost of gasoline and diesel fuel as published by the Department of Energy. The index to be used is the "DOE Regional Diesel Fuel Prices - Gulf Coast Region." at <http://www.fwccinc.com/doefuel.html>.

10. TEMPORARY ASSISTANCE TO AFFECTED CITY EMPLOYEES.

- A. In addition to the family leave periods contained within the City of Marfa Employee Handbook, the City shall provide an additional two (2) weeks of paid sick leave to employees that contract COVID-19 or are experiencing COVID-19-type symptoms, or are caring for someone with COVID-19, or are subject to quarantine or self-quarantine.
- B. The City urges all businesses to provide two weeks of paid sick leave to employees that contract COVID-19 or are experiencing COVID-19-type symptoms, are caring for someone with COVID-19, or are subject to quarantine or self-quarantine.

11. TEMPORARY CESSATION OF VACATION LEAVE.

- A. Except for good cause as determined by the City Manager, granting of vacation leave shall be suspended for the duration of this ordinance.
- B. Employees shall not lose any vacation leave they would otherwise be entitled to as a result of the implementation of this temporary emergency policy.

12. CITY UTILITIES.

- A. The City of Marfa shall not disconnect the provision of water, natural gas, sewer and/or solid waste removal while this ordinance is in effect. Individuals who require additional time to pay for city services used during this emergency time period should contact city hall at (432) 729-4315 to establish a payment plan.
- B. Late fees and penalties for city utility services shall be waived effective March 19, 2020, continuing until thirty (30) days after all national, state, and local emergency declaration orders are lifted.
- C. Short-term rental rates for solid waste disposal shall be reclassified as residential customers effective March 19, 2020, continuing until thirty (30) days after all state and local emergency declaration orders are lifted.
- D. To the extent allowed by law, no landlord shall evict a tenant for lack of payment while this ordinance is in effect.

13. VIRTUAL MEETINGS OF THE MARFA CITY COUNCIL.

- A. In accordance with Governor Abbott's March 16, 2020 suspension of the Open Meetings Act requirement of a physical gathering space for people to watch government meetings and ask questions, the Marfa City Council shall meet without an audience present for the duration of this ordinance. Council Members and staff may either choose to attend city council meetings in

person, or may connect remotely to the meeting as specified by the Governor and the Texas Attorney General.

- B. City Council Meetings shall be conducted via Zoom. Individuals wishing to participate in and/or provide public comment during the meetings shall be given specific instructions on the agenda postings of how to access the meeting as specified by the Governor and the Texas Attorney General.

14. 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 or confinement in jail for a term that does not exceed 180 days.
- B. 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

16. SEVERABILITY.


It is hereby declared to be the intention of the Marfa City Council that the phrases, sentences, paragraphs, and sections of this ordinance are severable. If any part of this ordinance shall be 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 ordinance 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.

PASSED AND ADOPTED THIS 26th DAY OF MARCH, 2020 BY THE CITY COUNCIL OF THE CITY OF MARFA, TEXAS BY A VOTE OF 5 AYES AND 0 NAYS.



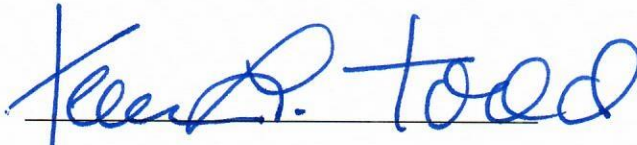
Hon. Manuel V. Baeza, Mayor

ATTEST:



Chelsea Smith, City Secretary

APPROVED AS TO FORM:



Teresa L. Todd, City Attorney

