

ORDINANCE NO. 20-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KENEDY, TEXAS EXTENDING A DECLARATION OF LOCAL DISASTER TO REQUIRE FACE COVERINGS FOR COMMERCIAL ENTITIES; AN EFFECTIVE DATE; ESTABLISHING PENALTIES FOR VIOLATIONS; AND ALL MATTERS CONNECTED THEREWITH.

WHEREAS, the Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying that COVID-19 poses an imminent threat of disaster for cities and counties in the state with multiple amended Executive Orders; and

WHEREAS, on March 20, 2020, Mayor James D. Sutton declared a local state of disaster and public health emergency, and further declared all rules and regulations that may inhibit or prevent the prompt response to the COVID-19 threat be suspended for the duration of this pandemic; and

WHEREAS, the City of Kenedy, Texas adopted in Ordinances Nos. 20-02; 20-03 and 20-06, measures to reduce the possibility of exposure to COVID-19 and to promote the health and safety of City of Kenedy residents; and

WHEREAS, on June 3, 2020, Governor Abbott issued Executive Order GA-26 related to the expansion and reopening of services as part of a strategic plan to “Open Texas”, with reduced occupancy limits and continuing recommended health protocols and social distancing measures to attempt to mitigate increased transfer of COVID-19 associated with the expanding commercial and social interactions; and

WHEREAS, on June 17, 2020, Governor Abbott has clarified that his plan to reopen the Texas economy includes maintaining the authority of local governments to require businesses to adopt and enforce health policies that include face covering requirements; and

WHEREAS, on June 23, 2020, Governor Abbot amended Executive Order GA-26 paragraph number 5 to read as follows: “For any outdoor gathering estimated to be in excess of 100 people, other than those set forth above in paragraph numbers 1, 2, or 4, the county judge or mayor, as appropriate, in consultation with the local public health authority, may impose additional restrictions”; and

WHEREAS, on June 26, 2020, Governor Abbot issued Executive Order 28. Paragraph 6, of said order reads as follows: “For dine-in services by restaurants that have less than 51 percent of their gross receipts from the sale of alcoholic beverages, the occupancy limit shall remain at 75 percent until 12:01 a.m. on June 29, 2020, at which time such restaurants may only operate at up to 50 percent of the total listed occupancy of the restaurant, subject to paragraph number 9 below”; and

WHEREAS, on June 26, 2020, Governor Abbot issued Executive Order 28. Paragraph 7, of said order reads as follows: “People shall not visit bars or similar establishments that hold a permit from the Texas Alcoholic Beverage Commission (TABC) and are not restaurants as defined above in paragraph number 6; provided, however, that the use by such bars or similar establishments of

drive-thru, pickup, or delivery options for food and drinks is allowed to the extent authorized by TABC”;

WHEREAS, on June 26, 2020, Governor Abbot issued Executive Order 28. Paragraph 12, of said order reads as follows: “Except as provided in this executive order or in the minimum standard health protocols recommended by DSHS, found at www.dshs.texas.gov/coronavirus, people should not be in groups larger than ten and should maintain six feet of social distancing from those not in their group; and

WHEREAS, the COVID-19 virus spreads between people who are in close contact with one another through respiratory droplets produced when an infected person coughs or sneezes; and

WHEREAS, infected persons can transmit the COVID-19 virus to others before showing any symptoms, and widespread and consistent use of face coverings over the nose and mouth when in public is a critical and necessary measure to help slow the spread of the virus while allowing local businesses to continue to reopen and help the City of Kenedy’s economy recover; and

WHEREAS, as of June 26, 2020 approximately 137,624 cases of COVID-19 have been reported in Texas including 2,324 deaths; and

WHEREAS, the City recognizes it is subject to Governor Abbot’s Executive Orders as amended and/or supplemented recommending health protocols and social distancing measures to mitigate the increased transfer of COVID-19; and

WHEREAS, because the City of Kenedy residents seek quality information and guidance to make informed decisions about what is permitted under the Governor’s Order and the ongoing risks of the continued spread of COVID-19, the City Council of the City of Kenedy issues this extension to continue the recommendations and guidance communicated by the Centers for Disease Control and Prevention (“CDC”) including recommendations to wear face coverings and maintain social distancing in order to help to reduce and eventually eliminate COVID-19 infection in our community while also advancing economic recovery.

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

Section 1. The recitals contained in the preamble are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 2. Mandatory Health and Safety Policy. Effective as of the date of this Ordinance and continuing until new positive cases of COVID-19 in the City of Kenedy are 10% or less over a fourteen (14) day rolling average, unless extended, modified, or terminated earlier by subsequent Ordinance, all commercial entities in the City of Kenedy providing goods or services directly to the public must develop and implement a health and safety policy or plan related to COVID-19. The health and safety policy or plan must require, at a minimum, that all employees, visitors and patrons wear face coverings while on the commercial entity's business

premises or other facilities except in the following circumstances:

- a. when the person is alone in a separate single space, whether indoors or outdoors;
- b. when the person is in the presence only of other members of the same household or residence, whether indoors or outdoors;
- c. when doing so poses a greater mental or physical health, safety or security risk;
- d. when the person is outdoors engaging in an allowed activity while alone, or with only members of the same household or residence, or while maintaining a consistent separation of six (6) feet or more from others and engaging in conduct authorized and as allowed by Governor's Order GA-26 or subsequent executive order; or
- e. when the person is eating or drinking in a restaurant or bar.

Section 3. The health and safety policy or plan required by this Ordinance shall be developed and implemented on or before **July, 6, 2020** and may also include the implementation of other mitigating measures designed to control and reduce the transmission of COVID-19 such as temperature checks or health screenings. All commercial entities must post the health and safety policy, or plan required by this Ordinance in a conspicuous location sufficient to provide notice to employees and visitors of all health and safety requirements.

Section 4. This Ordinance adopts the penalty provision set forth in Ordinance 20-06 as follows: That pursuant to Texas Government Code Section 418.173 any person(s) found to have violated any provision of this Ordinance, Governor Abbott's Executive Order GA-18, or both this Ordinance and Governor Abbott's Executive Order GA-18 shall be guilty of an offense punishable by a fine not to exceed \$1000, confinement in jail for a term not to exceed 180 days, or both fine and confinement; further there will be no civil or criminal penalty for failure to wear a face covering.

Section 5. All ordinances or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters herein.

Section 6. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 7. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 8. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 9. This Ordinance shall be in force and effect from and after its final passage, and any publication required by law.

PASSED, ADOPTED, APPROVED, AND EFFECTIVE THE 29th DAY of June 2020.

CITY OF KENEDY, TEXAS

By: 

Mayor Pro-Tem Brandon Briones

ATTEST:



Amanda Hines, City Secretary