

ORDINANCE NO. 260

AN ORDINANCE OF THE CITY OF PELICAN BAY, TEXAS, CONTINUING THE MAYOR'S DECLARATION OF LOCAL DISASTER FOR PUBLIC HEALTH EMERGENCY; PRESCRIBING ORDERS TO HELP ABATE THE PUBLIC HEALTH EMERGENCY; PROVIDING AN ENFORCEMENT CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, beginning in December 2019, a novel coronavirus, now designated COVID-19, spread through the world and has now been declared a global pandemic by the World Health Organization; and

WHEREAS, symptoms of COVID-19 include fever, coughing and shortness of breath and, in some cases, the virus has caused death; and

WHEREAS, on March 13, 2020, the Governor of the State of Texas declared a statewide public health emergency; and

WHEREAS, on March 27, 2020, the Mayor declared a local disaster for public health emergency in the City of Pelican Bay, Texas; and

WHEREAS, the County Judge of Tarrant County has declared a local disaster for a public health emergency; and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") has advised that person-to-person contact heightens the risk of COVID-19 transmission; and

WHEREAS, the President's Coronavirus Guidelines for America, as promulgated by President Donald J. Trump and the CDC on March 16, 2020, call upon Americans to slow the spread of COVID-19 by avoiding social gatherings in groups of more than 10 people, using drive-thru, pickup, or delivery options at restaurants and bars, and avoiding visitation at nursing homes, among other steps; and

WHEREAS, the City Council of the City of Pelican Bay, Texas ("City Council") finds that extraordinary measures must be taken to contain COVID-19 and prevent its spread throughout Pelican Bay, and the declaration of local disaster and public health emergency includes the ability to reduce the possibility of exposure to disease, control the risk, promote health, compel persons to undergo additional health measures that prevent or control the spread of disease, including isolation, surveillance, quarantine, or placement of persons under public health observation, including the provision of temporary housing or emergency shelters for persons misplaced or evacuated and request assistance from the Governor of state resources; and

WHEREAS, the continued worldwide spread of COVID-19 presents an imminent threat of widespread illness, which requires emergency action; and

WHEREAS, the conditions necessitating the declaration of a state of disaster continue to exist and are anticipated to continue to exist at least until April 30, 2020; and

WHEREAS, Section 418.108(b) of the Texas Government Code provides that a local state of disaster may not be continued for a period in excess of seven days without the consent of the governing body of the political subdivision; and

WHEREAS, the City Council has determined that the duration of the Mayor's amended declaration should be extended to help abate the public health threat; and

WHEREAS, the City Council finds that it is in the best interest of the citizens of Pelican Bay to continue the declaration in accordance with Section 418.108(b) of the Texas Government Code and Section 122.005 of the Texas Health and Safety Code.

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

SECTION 1: The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Pursuant to Section 418.108 of the Texas Government Code, the City Council finds and declares a local state of disaster for public health emergency in Pelican Bay as a result of the impact of COVID-19. The amended declaration of local disaster issued by the Mayor on April 7, 2020, is hereby continued as provided in Section 418.108(b) of the Texas Government Code.

SECTION 3: Pursuant to Sections 121.003 and 122.005 of the Texas Health and Safety Code, Section 418.108 of the Texas Government Code and such other powers the City of Pelican Bay may have under other laws, the City Council hereby adopts and approves the following orders, which shall apply throughout Pelican Bay and shall be in effect on and from the date of this Ordinance and through April 30, 2020, provided, however, that any such order may be terminated before April 30, 2020, by subsequent order of the Mayor or City Council, and may be continued or renewed beyond April 30, 2020 only with the consent of the City Council:

1. Pursuant to Section 418.108(d) of the Texas Government Code, the City of Pelican Bay Emergency Management Plan shall remain active throughout the duration of this disaster declaration. All aspects of the City of Pelican Bay's Emergency Management Plan not already activated are hereby activated as provided in the plan to the extent determined by the Mayor to be necessary to respond to the COVID-19 emergency.
2. Pursuant to Section 418.020(d) of the Texas Government Code, the City of Pelican Bay is authorized to: (1) temporarily or permanently acquire by lease, purchase or other means sites required for installation of temporary housing units, emergency shelters or public health facilities for disaster victims; and (2) enter into arrangements necessary to prepare or equip the sites to use the housing units, emergency shelters or public health facilities, including arrangements for the purchase of temporary housing units, emergency shelters or public health facilities and the payment of transportation charges.

3. Pursuant to Section 122.005 of the Texas Health and Safety Code, the City of Pelican Bay is authorized to adopt rules to protect the health of persons in Pelican Bay, including quarantine rules to protect its residents against communicable disease and provide for the establishment of quarantine stations, emergency hospitals and other hospitals.

SECTION 4: Effective 12:00 a.m. on April 16, 2020, and continuing until the expiration or termination of this declaration or on such other date as determined by the Mayor or City Council, subject to extension with the consent of City Council, the following is hereby ordered:

1. That a state of local disaster and public health emergency has been declared for Pelican Bay pursuant to § 418.108(a) of the Texas Government Code.
2. That this Declaration shall be given prompt and general publicity and shall be filed promptly with the City Secretary, pursuant to § 418.108(c) of the Texas Government Code.
3. That the Pelican Bay Emergency Management Plan has been activated and implemented, pursuant to § 418.108(d) of the Texas Government Code.
4. That this Declaration authorizes the City to take any actions necessary to promote health and suppress disease, including quarantine, evacuation, regulating ingress and egress from a disaster area and controlling the movement of persons and the occupancy of premises, pursuant to § 418.108(f), (g) of the Texas Government Code.
5. All persons currently residing within the incorporated city limits of Pelican Bay shall stay at their place of residence, except as allowed by this Order. All persons may leave their residences only for Essential Travel, Essential Services, and Essential Activities, to work in or access Essential Businesses, Government Service, or Essential Critical Infrastructure, or to perform Minimum Basic Operations, as defined below. To the extent individuals are using shared or outdoor spaces, they must maintain Social Distancing and minimize in-person contact with people who are not in the same household. Nothing in this Executive Order is intended to restrict "essential services" as such term is defined in Governor Abbott's Executive Order GA-14 (Order GA-14), nor is it intended to allow gatherings prohibited by Order GA-14. To the extent that the Texas Division of Emergency Management approves additions to "essential services", those additions will be treated as an Essential Business in Pelican Bay. Nothing herein is intended to impose restrictions inconsistent with Order GA-14 or any other order issued by the Governor currently in effect relating to COVID-19 (a COVID Order). To the extent that this Declaration conflicts with a COVID Order, the provisions in a COVID Order prevail. All questions relating to a COVID Order shall be directed to the Texas Division of Emergency Management via email at EssentialServices@tdem.texas.gov. Information is also available at www.tdem.texas.gov/essentialservices.

6. All businesses operating in Pelican Bay, except Essential Businesses as defined herein, shall not allow members of the public to occupy business premises. Non-essential businesses may continue Minimum Basic Operations, as outlined below, so long as the businesses strictly adhere to the following: (1) minimize in-person contact with people who are not in the same household; (2) maintain Social Distancing; (3) utilize remote teleworking to the greatest extent possible; and (4) minimize the number of employees needed to operate at a basic level. Minimum Basic Operations allows the minimum necessary activities to: (a.) Maintain the value of the business's inventory or equipment, process payroll and employee benefits, maintain the premises and the security of the premises, equipment or inventory, including the care and maintenance of livestock or animals; (b.) IT or other operations that facilitate employees working from home; and (c.) Facilitate online or call-in sales; and/or perform in-store repair services.
7. It is ordered that a restaurant with or without drive-in or drive-through services; drive-in restaurant; drive-through restaurant; or microbrewery, micro-distillery, or winery may only provide take out, delivery, curbside pickup or drive-in or drive-through services as allowed by law. Social Distancing is required.
8. All public or private gatherings of any number of people occurring outside a single household or living unit are prohibited, except as otherwise provided herein. Nothing in this Executive Order prohibits the gathering of members of a household or living unit nor does it prohibit any gathering expressly permitted by Order GA-14.
9. All elective medical, surgical, and dental procedures are prohibited anywhere in Pelican Bay. All licensed health care professionals shall postpone all surgeries and procedures that are not immediately medically necessary to correct a serious medical condition of, or to preserve the life of, a patient who without immediate performance of the surgery or procedure would be at risk for serious adverse medical consequences or death as determined by the patient's physician. Provided, however, that this prohibition shall not apply to any procedure that, if performed in accordance with the commonly accepted standard of clinical practice, would not deplete the hospital capacity or the personal protective equipment needed to cope with the COVID-19 disaster. See Texas Medical Board, 22 TAC§ 187.57 (c) (1), (2).
10. If someone in a household has tested positive for COVID-19, the household is ordered to isolate at home. Members of the household cannot go to work, school, or any other community function until cleared by a medical professional but may seek medical services as needed from medical personnel and facilities.
11. Nursing homes, retirement, and long-term care facilities are to prohibit non-essential visitors from accessing their facilities unless to provide critical assistance or for end-of-life visitation.

12. Individuals experiencing homelessness are strongly urged to obtain shelter and maintain Social Distancing when feasible. If a homeless person is sheltered and exhibits symptoms or is diagnosed, the shelter's isolation center shall be deemed the residence of the homeless person solely for the purpose of complying with the requirements of this Declaration. Medical personnel shall make the decision whether any other shelter residents shall be required to isolate based on potential exposure. Available shelters, to the maximum extent practicable, must use COVID-19 risk mitigation practices in their operations.

13. Definitions:

a. Social Distancing means maintaining at least 6 feet distance from other individuals, frequently washing hands with soap and water for at least 20 seconds, using hand sanitizer, covering coughs or sneezes (into the sleeve or elbow, not the hands), regularly disinfecting high touch surfaces, and not shaking hands.

b. Minimum Basic Operations include the following, provided the businesses strictly adhere to the following: (1) minimize in-person contact with people who are not in the same household; (2) maintain Social Distancing; (3) utilize remote teleworking to the greatest extent possible; and (4) minimize the number of employees needed to operate at a basic level.

Minimum Basic Operations allows the minimum necessary activities to:

- Maintain the value of the business's inventory or equipment, process payroll and employee benefits, maintain the premises and the security of the premises, equipment or inventory, including the care and maintenance of livestock or animals;
- IT or other operations that facilitate employees working from home; and
- Facilitate online or call-in sales; and/or perform in-store repair services.

c. Essential Activities includes any of the following:

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 (for example, obtaining medical supplies or medication, visiting a health care professional, or obtaining supplies need to work from home).

ii. To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others (for example, food, pet and livestock supplies, and any other household consumer products, and products necessary to maintain the safety, sanitation, and essential operation of residences). It is strongly recommended that households, to the greatest extent possible, send only one person to businesses for the purpose of picking up food or other essential items.

iii. To engage in outdoor activity, provided the individuals comply with Social Distancing (for example, walking, biking, hiking, golfing, 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 Executive Order.

v. To care for a family member or pet in another household.

d. Essential Businesses:

i. Essential Health Care Services. Healthcare operations, including hospitals, clinics, doctors, dentists, pharmacies, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers, substance abuse providers, blood banks, medical research, or any related and/or ancillary healthcare services, veterinary care provided to animals. Home-based care for seniors, adults, or children. Residential facilities and shelters for seniors, adults, and children. Healthcare operations do not include fitness and exercise gyms and similar facilities. Healthcare operations do not include elective medical, surgical, and dental procedures as established in accordance with this Executive Order.

ii. Essential Government Functions. All services provided by local, state and federal governments needed to ensure the continuing operation of the government agencies to provide for the health, safety and welfare of the public. All Essential Government Functions shall be performed in compliance with Social Distancing, to the extent possible.

iii. Essential Critical Infrastructure. Pursuant to Governor Abbott's Executive Order GA-14, everything listed by the U.S. Department of Homeland Security in its Guidance on the Essential Critical Infrastructure Workforce, Version 2.0.

iv. Essential Retail. Food service providers, including grocery stores, warehouse stores, liquor stores, bodegas, gas stations, convenience stores, and farmers' markets and other retail stores that sell food products and household staples, pet and feed stores. Businesses not open to the public that ship or deliver groceries, food, goods or services directly to residences. Restaurants and other facilities that prepare and serve food, but only for delivery, take out, drive-in, drive-through, curb side pickup, or carry out. Schools and other entities that typically provide free services to students or members of the public on a pick-up and take-away basis only. The restriction of delivery or carry out does not apply to cafes and restaurants located within hospital and medical facilities. Laundromats, dry cleaners, and laundry service providers. Businesses that provide for the delivery of, or preparation of vehicles. Businesses that supply products needed for people to work from home, including businesses providing mail and shipping and post

office box. Businesses that supply products necessary for essential repairs and maintenance of a home or business. Hotel, motels, and shared rental units, except that all bars, cafes, or restaurants in hotels, motels, and shared rental units are closed except for pick-up and room service.

v. Providers of Basic Necessities to Economically Disadvantaged Populations. Social services and charitable organizations that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals; that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise vulnerable individuals.

vi. Essential Services Necessary to Maintain Essential Operations of Residences or Other Essential Businesses. Trash and recycling collection, processing and disposal, mail and shipping services, building cleaning and maintenance, auto repair, warehouse/distribution and fulfillment, and storage for essential businesses. Plumbers, pool services, yard maintenance and landscapers, security services, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operations of residences, Essential Activities, and Essential Businesses. Professional services, such as legal or accounting services, when necessary to assist in compliance with legally mandated activities.

vii. News Media. Newspapers, television, radio, and other media services.

viii. Financial Institutions. Banks and related financial institutions, consumer lenders, alternative financial services companies, sales and finance lenders, credit unions, appraisers, and title companies. As much business as possible shall be conducted with web-based technology to limit in-person contact.

ix. Real Estate Transactions: Services related to current real estate transactions. As much business as possible shall be conducted with web-based technology to limit in-person contact.

x. Childcare Services. Childcare facilities providing services that enable employees who perform Essential Activities or work for an Essential Business to work as permitted.

xi. Animal Shelters, Zoos, and Other Businesses that Maintain Live Animals. Businesses that maintain and care for live animals are not permitted to allow any visitors or patrons but may continue to operate to the extent necessary to provide the necessary care for the animals. Nothing in this section shall prohibit a nonemployee from entering the premises to perform a health care services or another Essential Business service.

xii. Construction. Construction under a valid permit issued by a governmental entity.

xiii. Funeral Services. Funeral homes, crematoriums and cemeteries may operate.

xiv. Wedding Services. Weddings may be held, but not more than ten persons may be present at any one time. Social Distancing is required. Weddings may not be held inside a County building.

xv. Worship Services. Religious services conducted in churches, congregations, and houses of worship are permitted if they cannot be conducted from home or through remote services, so long as Social Distancing is maintained, and existing guidelines set forth by the Centers for Disease Control and Prevention (CDC) are followed. Religious services held outdoors whereby individuals remain in their vehicles are strongly encouraged. Order GA-14 orders that religious services "should be conducted consistent with the Guidelines from the President and the CDC ... "

xvi. Moving Services and Supply. Businesses that provide residential and/or commercial moving services and necessary moving supplies.

e. Essential Travel. For the purposes of this Executive Order, Essential Travel includes travel for any of the following purposes.

i. Any travel related to the provision of or access to Essential Activities, Essential Governmental Functions, and Essential Businesses Essential Critical Infrastructure, Minimum Basic Operation;

ii. Travel to care for elderly, minors, dependents, persons with disabilities, or other vulnerable persons;

iii. Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services;

iv. Travel to return to a place of residence from outside the jurisdiction;

v. Travel required by law enforcement or court order;

vi. Travel by church staff or clergy for the purpose of production of remote delivery of religious services and other ministries requiring travel;

vii. Travel related to attending a funeral service; or

viii. Travel required for non-residents to return to their place of residence outside the City. Individuals are strongly encouraged to verify that their transportation out of the City remains available and functional prior to commencing such travel.

f. Essential Services. Essential Services means services, by whomsoever rendered, and whether rendered to the government or to any other person, the interruption of which would endanger life, health or personal safety of the whole or part of the population.

14. This Declaration does not restrict business operations delivering Essential Services, pursuant to Attorney General Ken Paxton's Opinion No. KP-0296 and CISA.

15. That any certified peace officer or other person with lawful authority is hereby authorized to enforce the provisions of this Declaration in accordance with the authority granted under the Texas Disaster Act of 1975. Any person who violates this Declaration may be subject to a fine not exceeding \$1,000.

16. The Mayor and his designees are hereby authorized to exclude from any City of Pelican Bay facility a person whom the Mayor or his designee has reasonable cause to believe is ill with, has been exposed to or is the carrier of the virus that causes the sickness known as COVID-19.

17. All City of Pelican Bay board and commission meetings, with the exception of City Council and any other meeting required by law to be held, are postponed for the duration of this disaster declaration.

18. City of Pelican Bay sponsored and permitted special events and public rentals of City-owned facilities through May 29, 2020, are cancelled and refunds of deposit and/or fees for events and cancellations/refunds may be extended at the discretion of the Mayor.

SECTION 5: The City Council hereby finds that while in a state of disaster, there is a compelling public purpose in maintaining the City workforce and ensuring continuity in staffing while continuing the City's services while also recognizing that certain facilities and/or operations may need to be temporarily closed or suspended and/or certain personnel may encounter disaster-related events that prevent them from working at full capacity intermittently during the public health emergency. The City Council hereby authorizes the Mayor to make any staffing and compensation-related decisions necessary to adapt to the rapidly changing environment created by the public health emergency to meet the objectives stated herein and authorizes the expenditure of City funds to accommodate same. Any expenditure of funds beyond that approved in the FY 19-20 budget must come to the City Council for ratification at a City Council meeting, though the expenditure may be made prior to City Council ratification due to the public health emergency.

SECTION 6: The City Council hereby finds that for the duration of this disaster declaration, immediate procurement may be necessary to preserve and protect public health and safety. Accordingly, the City Council hereby authorizes the Mayor to purchase goods or services as necessary for ratification by the City Council at a later date as long as the procurement is in compliance with state law requirements.

SECTION 7: The City Council hereby finds that a public necessity exists to authorize the Mayor during the duration of this disaster to determine whether it is difficult or impossible for a

quorum of the members of decision-making boards of the City of Pelican Bay to meet in person based on public health and safety concerns related to the pandemic. If such a determination is made, decision-making boards will be authorized to conduct their public meetings via telephone conference pursuant to Section 551.125(b) of the Texas Government Code and/or the Governor's Order temporarily suspending certain provisions of the Texas Open Meetings Act and guidance received from the Texas Attorney General's Office.

SECTION 8: The City Council hereby authorizes the Mayor to temporarily waive any City Code regulations that are difficult or impossible to comply with during the term of this declaration of disaster as long as such waiver is not inconsistent with state law.

SECTION 9: Pursuant to Section 418.018(c) of the Texas Government Code, the declaration shall be given prompt and general publicity and shall be filed promptly with the City Secretary.

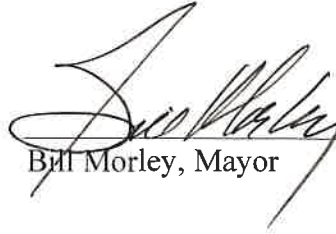
SECTION 10: All provisions of the Code of Ordinances of the City of Pelican Bay, codified or uncodified, in conflict with the provisions of this Ordinance are hereby temporarily superseded by this Ordinance for the duration of this declaration. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

SECTION 11: A violation of any provision of this Ordinance shall be a misdemeanor punishable by a fine not to exceed \$1000.00. The City Council hereby authorizes the use of all other lawfully available enforcement measures in the event of a violation of any provision of this Ordinance. A violation of any provision of this Ordinance shall constitute a separate violation for each calendar day in which it occurs.

SECTION 12: This Ordinance shall take effect immediately upon its passage and publication as required by law. This Ordinance expires on the earlier to occur of the termination of the state of emergency declared by the President of the United States or April 30, 2020, unless extended by the affirmative vote of the City Council.

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DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
PELICAN BAY, TEXAS on this 13th day of April, 2020



Bill Morley, Mayor

ATTESTED TO AND
CORRECTLY RECORDED BY:



Teri Anthony, City Secretary