

ORDINANCE NO. O:2021-007

AMENDING ORDINANCE NO O:2020-118 “REQUIRING FACE COVERINGS FOR COMMERCIAL ENTITIES,” TO INCLUDE FACE COVERING REQUIREMENTS FOR INDIVIDUAL CITIZENS WHEN INSIDE A COMMERCIAL ENTITY OR A SPACE OPEN TO THE PUBLIC; TO SET TEMPORARY OCCUPANCY LIMITS; AND, FOR THE IMPOSITION OF QUARANTINE AND ISOLATION MEASURES WHERE NECESSARY TO FURTHER PUBLIC HEALTH AND SAFETY

WHEREAS, to date over 21,000,000 cases of COVID-19 have been reported in the United States, including approximately 368,000 deaths; and,

WHEREAS, the Mayor of Del Rio issued disaster declarations on March 19, 2020 and March 23, 2020 which have been previously extended by this council; and,

WHEREAS, Val Verde County has been designated as Trauma Service Area P, under Southwest Texas RAC (Regional Advisory Council); and,

WHEREAS, the Texas Department of State Health Services has determined that, as of March 19, 2020, COVID-19 represents an imminent threat of disaster within the meaning of Chapter 81 of the Texas Health and Safety Code; and,

WHEREAS, Texas Governor’s Executive Order GA-32 relating to the continued response to the COVID-19 disaster as Texas reopens remains in effect; and,

WHEREAS, GA-32 provides that, with certain exceptions listed in Executive Order GA-28, business establishments in Texas are prohibited to operate at more than 75 percent of total listed occupancy; and,

WHEREAS, GA-28 further provides that in areas with “high hospitalizations,” any business establishment that otherwise would have a 75 percent occupancy or operating limit may operate at up to only 50 percent occupancy; and,

WHEREAS, “areas with high hospitalizations” is defined as any Trauma Service Area that has had seven consecutive days in which the number of COVID-19 hospitalized patients as a percentage of total hospital capacity exceeds 15 percent, until such time as the same Trauma Service Area has seven consecutive days in which the number of COVID-19 hospitalized patients as a percentage of total hospital capacity is 15 percent or less according to the list of areas with high hospitalizations maintained at www.dshs.texas.gov/ga3031; and,

WHEREAS, according to combined hospital data compiled by the Texas Department of Health Services (TDHS), the City of Del Rio, as part of Trauma Service Area P, has exceeded fifteen percent (15%) of total hospital capacity with current figures, as of January 7, 2021, at 27.77%; and,

WHEREAS, Texas Health and Safety Code §81.064 (a), referred to as the Communicable Disease Prevention and Control Act, provides that the local health authority may enter at reasonable times and inspect within reasonable limits a public place in the performance of that person's duty to prevent or control the entry into or spread in this state of communicable disease by enforcing the rules adopted under chapter 81 of the same; and,

WHEREAS, pursuant to Texas Health and Safety Code §81.064 (b), a "public place" means all or any portion of an area, building or other structure, or conveyance that is not used for private residential purposes, regardless of ownership; and,

WHEREAS, the Executive Order GA-29 by the Texas Governor provides that:

“every person in Texas shall wear a face covering over the nose and mouth when inside a commercial entity or other building or space open to the public, or when in an outdoor public space, wherever it is not feasible to maintain six feet of social distancing from another person not in the same household...”;
and,

WHEREAS, City of Del Rio ordinance 2020-118, in accordance with GA-29 recommends that citizens wear face masks; and,

WHEREAS, the Center for Disease Control (CDC) has stated that quarantine is used to keep someone who might have been exposed to COVID-19 away from others; and that quarantine helps prevent the spread of disease that can occur before a person knows they are sick or if they are infected with the virus without feeling symptoms; and,

WHEREAS, people in quarantine should stay home, separate themselves from others, monitor their health, and follow directions from their state or local health department; and,

WHEREAS, the Center for Disease Control (CDC) has stated that isolation is used to keep someone who is infected with the virus away from others, even in their home; and,

WHEREAS, Texas Health and Safety Code §122.006 provides that a municipality may adopt rules to protect the health of persons in the municipality, including quarantine rules to protect the residents against communicable disease; and,

WHEREAS, in order to address effectively the growing incidence of COVID-19 cases in the City of Del Rio, the City is determined to take measures to protect the city from a dramatic surge of COVID-19 cases within the municipality of Del Rio,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEL RIO, THAT:

I. Incorporation of Preamble Recitals

The Recitals contained in the preamble herein are hereby found to be true and are hereby made a part of this ordinance for all purposes and are adopted as a part of the judgement and findings of the City Council.

II. Quarantine and Isolation Mandate

Pursuant to §122.006 of the Texas Health and Safety Code (THSC), the City of Del Rio orders that any individual who receives a positive COVID-19 test result must isolate, and those from within their household must quarantine, and report to the local health authority within 24 hours of receiving the positive result.

III. Face Masks Requirements

Because an infected person can transmit the COVID-19 virus to others before showing any symptoms and for other reasons, the covering of a person's nose and mouth is necessary to help slow the spread of the virus. All persons, including those persons attending a protest or demonstration, MUST wear some form of covering that fits snugly over their nose and mouth, such as a commercially made or homemade fabric mask, scarf, bandana, when outside of his or her residence. This face-covering requirement, however, does not apply to the following:

- a. any person younger than 10 years of age (although it is still recommended for children two years of age and older). Parents and guardians of children under the age of 10 are responsible for appropriately masking their children when outside their residence;
- b. any person with a medical condition or disability that prevents wearing a face covering;
- c. any person while the person is eating or drinking, or is seated at a restaurant to eat or drink;
- d. any person while the person is (1) exercising outdoors or engaging in physical activity outdoors and (2) maintaining a safe distance from others not in the same household;
- e. any person while the person is driving alone or with passengers of the same household as the driver;
- f. any person obtaining a service that requires temporary removal of the face covering for security surveillance, screening, or the need for specific access to the face, such as while visiting a bank or while obtaining a personal care service involving the face, but only to the extent necessary for the temporary removal of the face covering;
- g. any person while the person is in a swimming pool, lake, or similar body of water;
- h. any person who is voting, assisting a voter, serving as a poll watcher;
- i. any person who is actively providing or obtaining access to religious worship, however wearing a face covering is strongly encouraged;
- j. any person while the person is giving a speech for a broadcast or to an audience;
- k. any person while temporary removal of the face covering is necessary for communication by or with a person who is hearing impaired; or,
- l. any person who is alone, or in the presence of only members of the same household or residence, in a separate room or single space not accessible to the public, and not in an indoor common area.

IV. Limitations on Occupancy

The City Council hereby ordains that business establishments maintain a 50% maximum occupancy limit until Trauma Service Area P, which includes the City of Del Rio, is no longer classified as a high hospitalization area as defined herein. Pursuant to the THSC local health authorities may conduct inspections as provided thereby and outlined herein, so long as the Governor's and Mayor's disaster declarations and emergency measures remain in place.

There is no occupancy limit for the following:

- a. any services listed by the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA) in its Guidance on the Essential Critical Infrastructure Workforce, Version 4.0 or any subsequent version;
- b. religious services, including those conducted in churches, congregations, and houses of worship;
- c. local government operations, including county and municipal governmental operations relating to licensing (including marriage licenses), permitting, recordation, and document-filing services, as determined by the local government;
- d. child-care services;
- e. youth camps, including but not limited to those defined as such under Chapter 14 of the Texas Health and Safety Code, and including all summer camps and other daytime and overnight camps for youths;
- f. recreational sports programs for youths and adults;
- g. any public or private schools, and any public or private institutions of higher education, not already covered above;
- h. drive-in concerts, movies, or similar events, under guidelines that facilitate appropriate social distancing, that generally require spectators to remain in their vehicles, and that minimize in-person contact between people who are not in the same household or vehicle; and
- i. the following establishments that operate with at least six feet of social distancing between work stations: cosmetology salons, hair salons, barber shops, nail salons/shops, and other establishments where licensed cosmetologists or barbers practice their trade; massage establishments and other facilities where licensed massage therapists or other persons licensed or otherwise authorized to practice under Chapter 455 of the Texas Occupations Code practice their trade; and other personal-care and beauty services such as tanning salons, tattoo studios, piercing studios, hair removal services, and hair loss treatment and growth services.

There is no occupancy limit for outdoor areas, events, and establishments, except for the following outdoor areas, events, or establishments that may operate at no more than 50 percent, as applicable, of the normal operating limits as determined by the owner:

- a. amusement parks;
- b. water parks;
- c. swimming pools;
- d. museums and libraries; and,
- e. zoos, aquariums, natural caverns, and similar facilities.

All indoor and outdoor professional, collegiate, and similar sporting events, including rodeos and equestrian events, shall remain limited to 50 percent of the normal operating limits as determined by the owner.

V. Recommended Health Protocols

The State of Texas Minimum Recommended Health Protocols are found at <https://www.dshs.texas.gov/coronavirus/opentexas.aspx#protocols> and are incorporated herein and mandated for all reopen and/or allowed businesses, activities and services. Given that the Minimum Recommended Health Protocols are written for statewide use, there may be elements, including but not limited to, percentage of occupancies that do not align with this ordinance. To the extent that any such conflict exists individuals should follow this ordinance.

VI. Enforcement

Pursuant to Texas Government Code section 418.173(b) it is an offense for an individual to violate a condition or restriction of any directive issued by the Mayor of Del Rio during the public health crisis/disaster. Said offense shall be a Class C Misdemeanor punishable by a fine not to exceed \$500.00. As per prior ordinance No. 2020-118 business entities which fail to comply with this mandate may be fined up to \$1,000 per incident.

VII. Zero Tolerance.

There is Zero Tolerance towards the violation by any individual or entity of the mandatory public health and safety measures specified herein and adopted hereby. Any person or entity found to be in violation of the prohibitions specified herein, to any extent, shall be fined in the amounts specified herein with no exceptions.

Any peace officer, including, but not limited to officers of Val Verde County Sheriff's Office, and the Del Rio Police Department, is hereby authorized to enforce the provisions of this ordinance in accordance with the authority granted under Chapter 418 of the Texas Government Code. To the extent allowed by law, this ordinance may be enforced by any code enforcement officers, code compliance officers, or other similar designation, in the same manner that municipal codes and ordinances are enforced.

VIII. Conflict with prior ordinances and laws

All ordinances or parts thereof, that 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 its matters herein.

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

IX. Savings Clause

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.


**PASSED, ADOPTED, AND APPROVED THE 12TH DAY OF JANUARY, 2021;
EFFECTIVE THE 14TH DAY OF JANUARY, 2021**

CITY OF DEL RIO, TEXAS

By: 

Bruno J. Lozano

ATTEST:



Maria C. Acosta, City Secretary

REVIEWED FOR ADMINISTRATION:



Matt Wojnowski
City Manager

REVIEWED AS TO FORM A LEGALITY:



Raul Casso
City Attorney