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SMITH COUNTY, TEXAS

BY Dawn Colasante
DEPUTY



**AMENDED ORDER OF DECLARATION OF
LOCAL DISASTER DUE TO PUBLIC HEALTH EMERGENCY
FOR SMITH COUNTY, TEXAS**

WHEREAS, pursuant to Texas Government Code Section 418.108, Smith County Judge Nathaniel Moran issued a Declaration of Local Disaster for Public Health Emergency on March 16, 2020, due to a novel coronavirus now designated SARS-CoV2 which causes the disease COVID-19; and

WHEREAS, on Tuesday, March 17, 2020 the Smith County Commissioners Court ratified and consented to that Order, and

WHEREAS, the on-going evaluation of circumstances related to the virus and the updated recommendations of the Centers for Disease Control and Prevention, the Texas Department of State Health Services, and local public health authority warrant the March 16, 2020 Order of County Judge Nathaniel Moran be amended; and

WHEREAS, on March 16, 2020, President Trump acknowledged the gravity of the COVID-19 pandemic, releasing strict new guidelines to limit people's interactions, including that Americans should avoid groups of more than 10 people.

NOW THEREFORE, the March 16, 2020, Order of County Judge Nathaniel Moran is hereby AMENDED as follows:

Summary: The virus that causes 2019 Coronavirus Disease (COVID-19) is easily transmitted through person to person contact, especially in group settings, and it is essential that the spread of the virus be slowed to protect the ability of public and private health care providers to handle the influx of new patients and safeguard public health and safety. Because of the risk of the rapid spread of the virus, and the need to protect the most vulnerable members of the community, this Amended Order requires all individuals anywhere in Smith County to, stay at home – except for certain essential activities and work to provide essential business and government services or perform essential public infrastructure construction, including housing. This Amended Order takes effect at 11:59 p.m. on Friday, March 27, 2020 and will continue through 11:59 p.m. on Friday, April 10, 2020, unless otherwise extended or terminated by further order of the County Judge of Smith County.

**UNDER THE AUTHORITY OF TEXAS GOVERNMENT CODE SECTION 418.108,
SMITH COUNTY JUDGE NATHANIEL MORAN ORDERS:**

1. That this Amended Order under Declaration of Local State of Disaster Due to Public Health Emergency shall be given prompt and general publicity and filed with the County Clerk. This Amended Order incorporates all provisions provided in the previous Disaster Order issued on March 16, 2020 and ratified by the Smith County Commissioners Court on March 17, 2020.
2. That, regardless of any other provision of this Amended Order, if a person residing in Smith County is being tested or has tested positive for COVID-19 ("COVID-19 Patient") or is a Person Under Investigation ("PUI"), that person plus all other individuals living at the same address¹ of a COVID-19 Patient or PUI are ordered to isolate at home until testing shows the COVID-19 Patient or PUI has either (i) tested negative (ii) is released back to work by a medical doctor, or (iii) is no longer an active PUI according to the Local Health Authority, whichever occurs first. Individuals identified in this paragraph shall not go to work, school, or any other community function until the COVID-19 Patient or PUI has either (i) tested negative (ii) is released back to work by a medical doctor, or (iii) is no longer an active PUI according to the Local Health Authority, whichever occurs first. Nothing in this paragraph shall prevent any individual from seeking health care services or treatment for themselves or assisting any family member.
 - a. COVID-19 Patient includes an individual who (i) has tested positive or (ii) has been tested COVID-19 and is still awaiting result.
 - b. Person Under Investigation ("PUI") is defined as an individual who the local public health authority has reason to believe is or may be infected in accordance with Texas Health and Safety Code, Chapter 81, Subchapters D, E, & G, and has been informed that they are a "Person Under Investigation."
 - c. This provision of this Amended Order in no way impedes the local public health authority or state public health authority from issuing or seeking any Control Measure Order under Texas Health and Safety Code, Chapter 81, Subchapter E.
3. That all individuals currently living in Smith County, Texas, (the "County") are ordered to stay in their place of residence. To the extent individuals are using shared or outdoor spaces, they must at all times as reasonably possible maintain physical distancing of at least six feet from any other person when outside their residence. All persons may leave their residences only for Essential Activities, Essential Government Functions, or to operate Essential Businesses or Locked Businesses, as defined below. Individuals experiencing homelessness are exempt from this Section, but are strongly urged to obtain shelter, and entities are strongly urged to make such shelter available as soon as possible and to the maximum extent practicable, and to utilize Social Distancing Requirements in their operations. Notwithstanding the foregoing, nothing in this order shall restrict the rights of any citizen of the County provided for by the Constitution of the United States or of the State of Texas.

¹ For apartment complexes or other multi-family units, the term "address" is intended only to mean those living in the same apartment number or housing unit.

4. That all businesses² with a facility in the County, except Essential Businesses or Locked Businesses as defined below, are required to cease all activities at facilities located within the County except Minimum Basic Operations, as defined below. For clarity, all businesses (regardless of whether they are an Essential Business or Locked Business or otherwise) may also continue operations consisting exclusively of employees or contractors performing activities at their own residences (i.e., working from home, teleworking, or telecommuting). All Essential Businesses are encouraged to determine essential staff necessary to operate, and send all non-essential staff to their respective homes. To the greatest extent feasible, Essential Businesses and Locked Businesses shall comply with Social Distancing Requirements as defined below, including but not limited to when any customers are standing in line.
 5. 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 in below. Nothing in this Amended Order prohibits the gathering of members of a household or living unit.
 6. All travel, except Essential Travel and Essential Activities as defined below is prohibited. People must use public transit only for purposes of performing Essential Activities or to travel to and from work to operate Essential Businesses or Locked Businesses, or maintain Essential Governmental Functions. People riding on public transit must comply with Social Distancing Requirements as defined below, to the greatest extent feasible. This Amended Order allows travel into or out of the County to perform Essential Activities, operate Essential Businesses or Locked Businesses, or maintain Essential Governmental Functions.
7. Definitions and Exemptions.
- a. **Essential Activities.** For purposes of this Amended Order, individuals may leave their residence only to perform any of the following "Essential Activities:"
 - 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 or household members or to deliver those services or supplies to others, such as, by way of example only and without limitation food, dry goods, fresh fruits and vegetables, pet 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 as defined below, such as, by way of example and without limitation, exercising, walking, hiking, running, or riding a bicycle;
 - iv. To perform work providing essential products and services at an Essential Business or Locked Business or to otherwise carry out activities performed by "Essential Critical Infrastructure Workers"³ in support of Critical

²For the purposes of this Order, covered businesses include any for-profit, or non-profit, regardless of the nature of the service the function they perform, or its corporate or entity structure.

³ For identification of workers who fit within the definition of "Essential Critical Infrastructure Workers," see the guidance provided by the U.S. Department of Homeland Security, Cybersecurity & Infrastructure Security

- Infrastructure or as otherwise specifically permitted in this Amended Order, including Minimum Basic Operations; and
- v. To care for a family member or pet in another household.

NOTWITHSTANDING THE FOREGOING PERMITTED ACTIVITIES, 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.

- b. **Healthcare Operations.** For purposes of this Amended Order, individuals may leave their residence to work for or obtain services at any “Healthcare Operations.” The term “Healthcare Operations” includes the activities of hospitals, clinics, private practice physicians, dentists, chiropractors, pharmacies, pharmaceutical companies, and biotechnology companies, other healthcare providers, healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers, or any related and/or ancillary healthcare services. “Healthcare Operations” also includes veterinary care and all healthcare services provided to animals. This exemption shall be construed broadly to avoid any impacts to the delivery of healthcare, broadly defined. "Healthcare Operations" does not include fitness and exercise gyms and similar facilities.
- c. **Critical Infrastructure.** For purposes of this Amended Order, individuals may leave their residence to provide any goods or services or perform any work necessary to the operations and maintenance of “Critical Infrastructure,” as more particularly identified by the U.S. Department of Homeland Security, Cybersecurity & Infrastructure Security Agency (CIS) as the following 16 critical infrastructure sectors: (1) Chemical Sector, (2) Commercial Facilities Sector (3) Communications Sector, (4) Critical manufacturing Sector (5) Dams Sector (6) Defense Industrial base Sector (7) Emergency Services Sector (8) Energy Sector (9) Financial Services Sector (10) Food and Agriculture Sector (11) Government Facilities Sector (12) Healthcare and Public Health Sector (13) Information Technology Sector (14) Nuclear Reactors, Materials, and Waste Sector, (15) Transportation Systems Sector and (16) Water and Wastewater Systems Sector, provided that they carry out those services or they work in compliance with Social Distancing Requirements as defined below, to the extent possible. See <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>.
- d. **Emergency Personnel, Law Enforcement, and the Judiciary.** Nothing in this Amended Order shall prohibit the activities of any first responder, emergency management personnel, emergency dispatcher, detention officer, court personnel, or law enforcement personnel.
- e. **Essential Governmental Functions.** Nothing in this Amended Order shall prohibit any individual from performing or accessing “Essential Governmental Functions,” as determined by the governmental entity performing those functions. Each governmental entity shall identify and designate appropriate employees or contractors to continue providing and carrying out any Essential Governmental Functions. All Essential Governmental Functions shall be performed in compliance

with Social Distancing Requirements as defined in this Amended Order, to the extent possible.

- f. **Schools.** Nothing in this Amended Order shall restrict the school-related activities of any public, private, or charter school, or any homeschool association, including without limitation the delivery or pick-up of meals, supplies, or homework assignments.
- g. **Essential Businesses.** For the purposes of this Amended Order, the term "Essential Businesses" means:
 - i. Healthcare Operations;
 - ii. Businesses engaged in activities necessary for the operation, maintenance, or support of Critical Infrastructure through the use of Essential Critical Infrastructure Workers;
 - iii. Grocery stores, farmers' markets, farm and produce stands, supermarkets, food banks, convenience stores, and other establishments engaged in the retail sale of food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products (such as cleaning and personal care products), and liquor stores. This includes stores that sell groceries and also sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences. This also includes facilities that provide warehouse and shipping services for the above mentioned products;
 - iv. Food cultivation, including farming, livestock; and fishing;
 - v. Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise indigent 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 and construction supply stores;
 - x. Firearms and ammunition manufacturer, sales, or repair;
 - xi. Plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences and businesses;
 - xii. Businesses providing mailing and shipping services, including post office boxes;
 - xiii. Laundromats, drycleaners, and laundry service providers;
 - xiv. Restaurants and other facilities that prepare and serve food, but only for delivery, drive through or carry out. Patrons may not wait inside a restaurant for their food orders, unless physical distancing of 6-feet is observed at all times. Restaurants are urged to create a system that does not involve such lines or gatherings of people waiting to order or waiting to receive their order;
 - 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 warehouse, ship, or deliver groceries, food, goods, or services directly to residences or to Essential Businesses or Locked Businesses;

- xviii. Airlines, taxis, and other private transportation providers providing transportation services necessary for Essential Activities and other purposes expressly authorized in this Amended Order;
 - xx. Home-based care for seniors, adults, or children;
 - xxi. Residential facilities and shelters for seniors, adults, and children;
 - xxii. Professional services: legal, accounting, insurance, real estate services (including appraisal, survey, and title services);
 - xxiii. Childcare facilities providing services that enable employees exempted in this Amended Order to work as permitted; provided, however, that to the extent possible, childcare facilities must operate under the following mandatory conditions: All Childcare must be carried out in accordance with guidelines provided by and under the direction of the Texas Department of Family and Protective Services, or any other State or Federal regulatory agency or department;
 - xxiv. Utilities, telecommunications, trash collection and disposal, law enforcement, EMS/ambulance, corrections, dispatch, animal shelters/animal control, and any other governmental employees who have been deemed essential by the respective governmental agency or department;
 - xxv. Janitorial and maintenance services, defense industry, space and technology industry, technology support, and scientific research; and
 - xxvi. Mortuary services, including funeral homes, crematoriums, and cemetery workers.
- h. **Locked Businesses.** For the purposes of this Amended Order, the term “Locked Businesses” means any business that: (i) operates with ten (10) or fewer employees, contractors, or subcontractors at any one time in a single physical facility; (ii) fully restricts public access to the inside of their business premises during the term of this Amended Order; and (iii) at all times, enforces Social Distancing Requirements among its employees, contractors, or subcontractors while they are performing services for the business at the business premises.
- i. **Minimum Basic Operations.** For the purposes of this Amended Order, “Minimum Basic Operations” include the following, provided that employees comply with Social Distancing Requirements as defined below, to the extent possible, while carrying out such operations: The minimum necessary activities to maintain the value of the business' inventory, ensure security, process payroll, and employee benefits or for related functions; and the minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences.
- j. **Essential Travel.** For the purposes of this Order, the term “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, Essential Businesses, or Minimum Basic Operations;
 - 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; or
 - vi. Travel required for non-residents to return to their place of residence⁴ 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. Individuals engaged in any Essential Travel must comply with all Social Distancing Requirements as defined below.
- k. **Social Distancing Requirements.** For purposes of this Amended Order, the term “Social Distancing Requirements” means maintaining at least six-foot physical distancing from other individuals, washing hands with soap and water for at least twenty seconds as frequently as possible or using an alcohol based hand sanitizer, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, and not shaking hands.
8. Non-essential businesses shall shut down except for maintaining Minimum Basic Operations as defined herein. Essential Businesses and Locked Businesses exempted from shut-down are encouraged to determine staff who are essential to operations and to send non-essential staff home.
9. When people need to leave their places of residence, whether to obtain or perform vital services or to otherwise facilitate authorized activities necessary for continuity of social and commercial life, they should at all times as reasonably as possible comply with Social Distancing Requirements as defined in this Amended Order.
10. Failure to comply with any of the provisions of this Amended Order constitutes an imminent threat to public health. The penalty for violating this Amended Order, in accordance with Texas Government Code, Section 418.173, shall be a fine of no more than One Thousand Dollars (\$1,000.00), confinement in the county jail for a term up to 180 days, or both such fine and confinement. Each day a violation occurs is a separate and distinct violation. This Amended Order also authorizes a licensed peace officers with local county or state jurisdiction to enforce the provisions of this Amended Order.
11. All provisions of this Amended Order should be interpreted to effectuate its intent. If any subsection, sentence, clause, phrase, or word of this Amended Order or any application of it to any person, structure, gathering, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision will not affect the validity of the remaining portions or applications of this Amended Order.
12. This Order remains in effect from 11:59 p.m., Friday, March 27, 2020 until 11:59 p.m., Friday, April 10, 2020, unless otherwise terminated or extended by order of the County Judge of Smith County, Texas.

This Order is adopted to be effective as of March 27, 2020 at 1:00 p.m.



NATHANIEL MORAN
SMITH COUNTY JUDGE

⁴ For purposes of this Amended Order, the term “residence” includes single-family or multi-family residential structures, duplexes, hotels, motels, shared rental units, and similar facilities.