

**SUPPLEMENTAL ORDER RELATING TO MANDATORY WEARING OF FACE COVERINGS
AT COMMERCIAL ESTABLISHMENTS OPEN TO THE PUBLIC
DATE ISSUED: June 23, 2020**

WHEREAS, on March 13, 2020, President Trump declared a National State of Emergency under the Stafford Act to combat the growing COVID-19 pandemic in the United States; and

WHEREAS, on March 13, 2020, Governor Greg Abbott declared a State of Disaster for all 254 Counties in the State of Texas; and

WHEREAS, on March 17, 2020, Mayor Barron Casteel, under the authority of state law, city charter, and local ordinance, issued a Declaration of Local State of Disaster in response to this public health emergency, that was extended by the City Council on March 23, 2020; and

WHEREAS, on March 18, 2020, Comal County Judge Sherman Krause declared a local disaster due to a public health emergency; and

WHEREAS, on March 19, 2020, the Texas Commissioner of Public Health issued a Declaration of Public Health Disaster in the State of Texas, that provides recommendations such as limiting public outings unless essential as defined in the Declaration; and

WHEREAS, the Governor has issued executive orders in an effort to combat the spread of COVID-19 throughout the state and to prevent the depletion of hospital capacity; and

WHEREAS, the Governor's Strike Force to Open Texas made recommendations, in consultation with state health officials, for safely and strategically revitalizing the Texas economy during our recovery from the COVID-19 disaster and the Governor announced a statewide Phase 1 Plan to Open Texas on April 27th; and

WHEREAS, the State of Texas and the City of New Braunfels must protect lives while restoring livelihoods, both of which can be achieved with the expert advice of medical and business leaders; and

WHEREAS, pursuant to Chapter 121 of the Texas Health & Safety Code, Comal County appointed Dr. Dorothy Overman the Comal County Health Authority who also serves as the City's local public health authority pursuant to the New Braunfels Code of Ordinances, Ch. 62, Division 2; and

WHEREAS, scientific evidence has proven that COVID-19 is a highly communicable disease that has affected people to varying degrees, depending upon age and health condition, and it has the potential to affect a significant portion of the local population based on the current rate of community transmission, placing increased persons at risk for serious health complications, resulting in hospitalization and possibly death; and

WHEREAS, based on the recent increase of the positivity rate of COVID-19 cases in the City of New Braunfels and the surrounding areas from 2.9% at the end of May to 8.2%

as of June 23rd, the local public health authority strongly recommends the immediate implementation of increased health safety measures be required in the City to help slow the community transmission of COVID-19; and

WHEREAS, based on guidance from the local public health authority, it is strongly suggested that face coverings be worn while in public or visiting commercial establishments, if it is not possible to maintain at least six (6) feet distance between individuals in order to help slow community transmission of COVID-19 within the City; and

WHEREAS, on June 17th, Governor Abbot publicly announced that according to his plans and executive orders, “local governments can require stores and businesses to require masks” and Governor Abbott further articulated that every city and county is authorized to impose this “requirement on business operations” “just like they can require people to wear shoes and shirts”; and

WHEREAS, by virtue of this emergency order, businesses will have to require employees and visitors to wear face coverings if it is not feasible to maintain at least six feet between individuals; and

WHEREAS, in accordance with Executive Order GA-26, failure to comply with any of Governor Abbott's executive orders or this local order issued during the COVID-19 disaster is an offense punishable under Section 418.173 by a fine not to exceed \$1,000.00 and may be subject to regulatory enforcement; and

WHEREAS, pursuant to the Texas Disaster Act of 1975, the Mayor is designated as the Emergency Management Director of the City of New Braunfels and may exercise the powers granted to the Governor of Texas on an appropriate local scale.

NOW, THEREFORE, BE IT ORDERED BY THE MAYOR OF THE CITY OF NEW BRAUNFELS, TEXAS, PURSUANT TO THAT AUTHORITY GRANTED IN ACCORDANCE WITH THE DECLARATION OF A LOCAL STATE OF DISASTER DATED MARCH 17, 2020, AND CHAPTER 418.108 OF THE GOVERNMENT CODE AND CHAPTER 122.006 OF THE HEALTH AND SAFETY CODE THAT:

Section 1. **Findings.** The findings and recitations set out in the preamble to this Order are found to be true and correct and they are hereby adopted by the Mayor and made part of this Order for all purposes.

Section 2. **Declaration and Duration of Emergency Order.** The regulations in this emergency order shall take effect immediately upon execution and shall remain in full force and effect until August 1, 2020, unless extended, modified, or terminated by the Mayor or City Council, or if superseded by the County Judge or Governor. The decisions to continue or revoke this order will take into consideration recommendations from the local public health official among other factors related to improved local conditions.

Section 3. **Health and Safety Policy-Commercial Entities and Employees only.** From the date of this emergency order, all commercial entities operating in the city limits of the City of New Braunfels, that provide goods or services directly to the public must develop and implement a health and safety policy (“Health and Safety Policy”). The Health and Safety Policy must require, at a minimum, that all employees and visitors to the commercial entity’s business premises or other facilities wear face coverings when in an area or performing an activity which will necessarily involve close contact or proximity to co-workers or the public where (6) feet of separation is not feasible. The Health and Safety Policy required to be developed and implemented by this emergency order may also include the implementation of additional mitigating measures designed to control and reduce the transmission of COVID-19, such as temperature checks or health screenings. Commercial entities must post the Health and Safety Policy required by this emergency order in a conspicuous location sufficient to provide notice to employees and visitors of all health and safety requirements. Failure to develop and implement the Health and Safety Policy required by this emergency order within five (5) calendar days (June 28, 2020) following the effective date may result in a fine not to exceed \$1,000 for each day the violation occurs.

A sample Health and Safety Policy and signage containing the minimum requirements of this order is attached as Exhibit A and may be used by a commercial entity as its own Health and Safety Policy, and it can include recommended requirements in the Governor’s health minimum standard protocols applicable to each business type, and additional requirements as determined by each individual business.

Section 4. **Face Coverings-General Public.** That all people 10 years or older shall wear a face covering over their nose and mouth when in a public place where it is difficult to keep six feet away from other people or working in areas that involve close proximity with other people or co-workers. The CDC recommends face coverings for people 2 years or older. *Face coverings* may include homemade masks, scarfs, bandanas, or a handkerchief. City residents should continue to maintain social distancing of at least six feet while outside their home. City employees are also required to wear face coverings under the same circumstances as the general public.

IT IS STRONGLY RECOMMENDED THAT YOU NOT OBTAIN OR WEAR MEDICAL MASKS OR N-95 RESPIRATORS AS THEY ARE A NEEDED RESOURCE FOR HEALTH CARE PROVIDERS AND FIRST RESPONDERS.

Our health care workers and first responders on the front-line combating COVID-19 must have priority access to medical masks or other personal protective equipment. Face coverings do not need to be worn in the following circumstances:

- When exercising outside or engaging in physical activity outside (this includes river activities such as tubing, swimming, kayaking, etc.)
- While driving alone or with passengers who are part of the same household as the driver
- When doing so poses a greater mental or physical health, safety, or security risk
- While pumping gas or operating outdoor equipment

- While in a building or activity that requires security surveillance or screening, for example, banks
- When consuming food or drink

Please note that face coverings are a secondary strategy to other mitigation efforts. Face coverings are not a replacement for social distancing, frequent handwashing, and self-isolation when sick. All people should follow CDC recommendations for how to properly wear and take off a face covering. Residents should keep up the following personal hygiene habits while in public places:

- Washing hands before you leave home and when you return,
- Staying at least six feet away from others,
- Avoiding touching your nose or face,
- Not using disposable masks more than three times, and
- Washing reusable cloth masks regularly to prevent the spread of COVID-19.

Consistent with Executive Order GA-26 issued by Governor Greg Abbott, no civil or criminal penalty will be imposed on individuals for failure to wear a face covering.

Section 5. **City Facilities.** In keeping with the ongoing procedures in place at all city owned or leased facilities, the City of New Braunfels will continue daily temperature checks for its employees before entering restricted areas of city owned or leased facilities. Pursuant to this order, temperature checks will be required of all citizens before entering restricted areas of any city operated building, not to include lobby areas. Temperatures will be taken by a city representative by the least obtrusive means. Any individual with a temperature exceeding 100 °F will not be allowed to enter the restricted areas of the municipal building. Citizens are encouraged to call the department or office you are attempting to visit prior to visiting a city owned or leased facility. All social distancing measures must be implemented at the controlled entry points and must be observed while in any city facility.

Section 6. **Essential City Business.** City residents are encouraged to conduct essential city business online, by phone, via regular mail, or alternative means in order to avoid visiting any city facilities, unless it is absolutely necessary.

Section 7. **Enforcement.** Excepting Section 4 of this order and in accordance with the limitations contained in the Governor’s Executive Orders, that any New Braunfels Police Officer, New Braunfels Fire Marshal, City Park Ranger, City Health and Building Inspector, City Code Enforcement Officer, and City Animal Control Officer is hereby authorized to enforce the provisions of this emergency order in accordance with the authority granted under the Texas Disaster Act of 1975.

Section 8. **Penalties.**

- A. The regulation contained in this emergency order shall have the effect of an ordinance when duly filed with the City Secretary.
- B. Excepting Section 4 of this order, failure to comply with any provision of this local emergency order shall be punishable by a fine not to exceed \$1,000.

Section 9. **Public Notice.** This Order shall be posted on the City's website and social media site.

Section 10. **Severability.** If any subsection, sentence, clause, phrase, or word contained in this emergency order is held invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision will not affect the validity of the remaining provisions of this emergency order.

Section 11. **Interpretation and Additional Terms.** To the greatest extent possible, this emergency order shall not be interpreted in a manner that conflicts with the Governor's Executive Order GA-26 or any subsequent orders of the Governor. In the event of a conflict, the Governor's Executive Orders shall supersede. All provisions of the executive orders of the Governor either existing or issued in the future, which are made applicable to all jurisdictions by law, shall be automatically incorporated into this order and shall constitute terms of this order, enforceable as if set forth herein without necessity for the issuance of further orders.

IT IS HEREBY ORDERED this 23rd day of June, 2020 at 8:30 p.m.

CITY OF NEW BRAUNFELS, TEXAS

By: Rusty Brockman
Rusty Brockman, Mayor

ATTEST:

Andrew Lyons
Andrew Lyons, Assistant City Secretary

