

STATE OF TEXAS

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COUNTY OF JEFF DAVIS

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**SIXTH AMENDED ORDER NO. 2020-04-6A
OF THE JEFF DAVIS COUNTY COMMISSIONERS COURT
CONTINUATION OF DISASTER DECLARATION**

**Sixth Amended Order Extending Continuing Disaster Declarations
and Instituting and Continuing Certain Emergency Measures Due to a
Public Health Emergency in Jeff Davis County due to COVID-19,
in Conformity with Governor Abbott's Executive Orders.**

WHEREAS, on March 13, 2020, the Governor of the State of Texas declared a state of disaster and the President of the United States of America declared a national emergency in relation to the pandemic spread of COVID-19; and

WHEREAS, by declaration issued on March 19, 2020, County Judge Keith Sproul Hurley declared a local state of disaster for Jeff Davis County, which was continued by the Jeff Davis County Commissioners Court through 11:59 p.m. on April 30, 2020, including a Shelter in Place Order enacted April 2, 2020; and

WHEREAS, on April 27, 2020 Governor Abbott released his Executive Order GA-18 and the Governor's Report to Open Texas, and specified that GA-18 superseded all local orders; and

WHEREAS, the Jeff Davis County Commissioners Court in response to GA-18 allowed Order #2020-02 Part 1 (Disaster Declaration including local provisions and restrictions) and Part 2 (Shelter in Place) to expire according to their terms; and authorized a new and updated Local Disaster Declaration Extension Order to continue for thirty (30) days under the statewide requirements contained in GA-18; and

WHEREAS, based on the most recent information from the Texas Department of State Health Services, there are 5 confirmed cases of COVID-19 in Jeff Davis County as of July 12, 2020; and

WHEREAS, on June 26, 2020, in response to a sustained increase in COVID-19 cases in Texas, Governor Abbott issued Executive Order GA-28, which closed bars and commercial rafting or tubing services and reduced occupancy of non-exempt businesses back to 50%; and

WHEREAS, on July 2, Governor Abbott enacted Executive Order GA-29, requiring all individuals to wear face coverings in public places, subject to certain exemptions; and

WHEREAS, on September 13, 2020 Governor Abbott issued Executive Orders GA-30 (increasing occupancy limits to 75% for some businesses and prohibiting outdoor gatherings larger than 10 people unless approved by county judge or mayor) and GA-31 (relating to hospital capacity), to become effective on September 21, 2020; and

WHEREAS, on October 7, 2020, Governor Abbott issued Executive Order GA-32, increasing occupancy limits for more businesses to 75% and opening bars and taverns, effective October 14, 2020; and

WHEREAS, Jeff Davis County is an international tourist destination with very limited medical facilities (1 local clinic); and

WHEREAS, COVID-19 cases are expected to increase over the fall and winter as people spend more time indoors and as flu season begins; and

WHEREAS, COVID-19 cases in Jeff Davis County have risen to six (6) active cases, the highest number of cases since testing in Jeff Davis County began; and

WHEREAS, emergency measures are therefore necessary to protect the health and welfare of Jeff Davis County residents from the spread of COVID-19, especially for our elderly and at-risk populations; and

WHEREAS, Pursuant to Texas Health and Safety Code §121.003(a), the commissioners court of a county may enforce any law that is reasonably necessary to protect public health; and

WHEREAS, Jeff Davis County Judge Kerith Sproul Hurley passed away on August 2, 2020, and on September 1, 2020 the Jeff Davis County Commissioners Court appointed Larry Francell as County Judge to serve through the November 3, 2020 election; and

WHEREAS, twenty-year veteran county commissioner Curtis Evans was elected to the office of Jeff Davis County Judge on November 3, 2020, and qualified for office on November 9, 2020 prior to the adoption of this Fifth Amended Order; and

WHEREAS, Fort Davis business owner John Davis was elected to the office of County Commissioner for Precinct 3 on November 3, 2020, and was appointed by Judge Evans to fill the unexpired term in his former office on November 9, 2020, prior to the adoption of this Fifth Amended Order; and

WHEREAS, On November 23, 2020, County Judge Evans was informed by the Texas Department of State Health Services (DSHS) that the percentage of total hospital capacity in Trauma Service Area J exceeded 15% for the 7 previous days, resulting in a classification of “high hospitalizations” for the region. Trauma Service Area J includes Jeff Davis, Presidio, Brewster, Culberson, Hudspeth, Reeves, Pecos, Midland, Ector, and eight other counties; and

WHEREAS, in accordance with Governor Abbott’s Executive Order GA-32 issued on October 7, 2020, all restaurants, retail stores, office buildings, manufacturing facilities, gyms and exercise facilities and classes, museums, and libraries in all counties in Trauma Service Area J were required to return to maximum 50% occupancy levels; and

WHEREAS, as of December 2, 2020, Jeff Davis County had 40 active COVID-19 cases and 72 total cases; and

WHEREAS, on November 30, 2020, Presidio County was #3 and Brewster County was #4 on the list of national “Hot Spots” in the *New York Times*, based on cases per capita, and on December 2, 2020, Presidio County was #4 and Brewster County was #6; and

WHEREAS, fortunately since that time COVID-19 active cases have decreased, with 25 reported active cases and 75 reported total cases in Jeff Davis County as of December 11, 2020; and

WHEREAS, with the spike in cases in late November and early December 2020, however, Jeff Davis County does not qualify for any state minimal case exemption or any mask exemption; and

WHEREAS, COVID-19 cases have also decreased in Brewster and Presidio Counties during the past week; and

WHEREAS, with the holiday season and colder weather resulting in people gathering indoors, it is imperative to continue to take measures to prevent the spread of COVID-19 in Jeff Davis County; and

WHEREAS, the Jeff Davis County Commissioners Court hereby adopts this Sixth Amended Order #2020-04-6A to continue and extend this Disaster Declaration for Jeff Davis County from 12:01 a.m. on December 16, 2020 until 11:59 p.m. on January 15, 2021, subject to and including any other Orders by the Jeff Davis County Commissioners Court or Executive Orders of the Governor of the State of Texas; and

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF JEFF DAVIS COUNTY, TEXAS:

That the following measures are in effect for the duration of this Order:

1. CONTINUATION OF DISASTER DECLARATION.

County Judge Sproul Hurley's declaration of local state of disaster due to public health emergency dated March 19, 2020 and First Supplemental Emergency Disaster Declaration dated April 3, 2020 are hereby extended, continued, and renewed for Jeff Davis County pursuant to Texas Government Code §418.108(b).

This Order shall supersede all previous Orders issued earlier, shall become effective at 12:01 a.m. on December 16, 2020, and shall remain in effect until 11:59 p.m. on January 15, 2021, subject to and including any other orders by the Jeff Davis County Commissioners Court or Executive Orders of the Governor of the State of Texas.

2. CONFORMITY WITH GOVERNOR ABBOTT'S EXECUTIVE ORDERS.

This Order continues the disaster declaration for Jeff Davis County, and implements more stringent containment and mitigation measures to prevent further spread of COVID-19 as contained in Governor Abbott's Executive Orders GA-28 and GA-29. The Governor's Executive Orders can be found at:

<https://lrl.texas.gov/legeLeaders/governors/displayDocs.cfm?govdoctypeID=5&governorID=45>

3. CAPACITY.

Businesses in Jeff Davis County may operate at the specified capacity as set out by Governor Abbott in his Executive Orders, including GA-32. Essential services which are exempt from capacity limits are set out here:

https://www.cisa.gov/sites/default/files/publications/Version_3.0_CISA_Guidance_on_Essential_Critical_Infrastructure_Workers_4.pdf

<https://tdem.texas.gov/essentialservices/>

The percentage of capacity shall be calculated in accordance with the standards promulgated by the National Fire Protection Association of 15 square feet per person based on the gross available floor space, excluding staff members, as specified on page 6 of GA-23.

The list of covered services and applicable occupancies may be updated from time to time through new Executive Orders by Governor Abbott.

4. FACE COVERINGS REQUIRED PURSUANT TO GA-29:

- A. In accordance with GA-29, every person in Texas over the age of 10 is required to 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, subject to the following 11 exceptions:
1. Any person younger than ten (10) years of age;
 2. Any person with a medical condition or disability that prevents wearing a face covering;
 3. Any person while the person is consuming food or drink, or is seated at a restaurant to eat or drink;
 4. Any person while the person is (a) exercising outdoors or engaging in physical activity outdoors, and (b) maintaining a safe distance from other people not in the same household;
 5. Any person while the person is driving alone or with passengers who are part of the same household as the driver;
 6. Any person obtaining a service that requires temporary removal of the face covering for security surveillance, screening, or a 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;
 7. Any person while the person is in a swimming pool, lake, or similar body of water;
 8. Any person who is voting, assisting a voter, serving as a poll watcher, or actively administering an election, but wearing a face covering is strongly encouraged;
 9. Any person who is actively providing or obtaining access to religious worship, but wearing a face covering is strongly encouraged;
 10. Any person while the person is giving a speech for a broadcast or to an audience; or
 11. Any person in a county (a) that meets the requisite criteria promulgated by the Texas Division of Emergency Management (TDEM) regarding minimal cases of COVID-19, and (b) whose county judge has affirmatively opted-out of this face-covering requirement by filing with TDEM the required face-covering attestation form—provided, however, that wearing a face covering is highly recommended, and every county is strongly encouraged to follow these face-covering standards.

Governor Abbott's Executive Orders, including GA-29, can be found here:

<https://lrl.texas.gov/legeLeaders/governors/displayDocs.cfm?govdoctypeID=5&governorID=45>

NON-EXEMPTION: In accordance with GA-29, not excepted from this face covering requirement is any person attending a protest or demonstration involving more than 10 people and who is not practicing safe social distancing of six feet from other people not in the same household.

5. SOCIAL DISTANCING.

In accordance with Governor Abbott's Executive Orders and the recommendations of the CDC, Jeff Davis County residents and visitors of all types shall implement social distancing while conducting business outside of the household, and shall practice good hygiene, environmental cleanliness, and sanitation to help prevent the spread of COVID-19.

6. GATHERINGS.

In accordance with GA-30, any outdoor gathering in excess of 10 people is prohibited unless the mayor of the city in which the gathering is held, or the county judge in the case of a gathering in an unincorporated area, approves of the gathering, and such approval can be made subject to certain conditions or restrictions not inconsistent with GA-30 and GA-32.

7. VIOLATIONS AND PENALTIES.

- A. In accordance with Texas Government Code §418.173, a person who knowingly or intentionally violates this declaration commits an offense, punishable by a fine up to \$1,000.00.
- B. In accordance with Texas Penal Code §12.05 and Governor Abbott's statewide disaster declaration, the following crimes are enhanced (increased) by one degree if committed during the time of disaster declaration:
 - Assault
 - Arson
 - Robbery
 - Burglary
 - Burglary of coin-operated machines
 - Burglary of vehicles
 - Criminal Trespass
 - Theft

- C. In accordance with GA-29, following a verbal or written warning for a first-time violator of the face-covering requirement, a person's second violation shall be punishable by a fine not to exceed \$250.00. Each subsequent violation shall be punishable by a fine not to exceed \$250.00 per violation.
- D. A violation of the requirement to wear face coverings by a business entity is punishable by a fine of up to \$1,000.00 per violation.

8. SEVERABILITY.

It is hereby declared to be the intention of the Jeff Davis County Commissioners Court that the phrases, sentences, paragraphs, and sections of this order are severable. If any part of this order shall be superseded by Executive Order of the Governor of the State of Texas or ruled unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutional phrase, sentence, paragraph, or section shall be severed from the order by operation of the judgment; however, this unconstitutionality shall not affect the remaining phrases, sentences, paragraphs, and sections, which shall remain in full force and effect.

THE ORIGINAL ORDER WAS HEREBY APPROVED, ORDERED, AND ADOPTED on the 2nd day of June, 2020, by a vote of 4 ayes and 0 nays.

THE FIRST AMENDED ORDER WAS HEREBY APPROVED, ORDERED, AND ADOPTED on the 13th day of July, 2020, by a vote of 5 Ayes and 0 Nays, to be retroactively effective as of 12:01 a.m. on July 1, 2020.

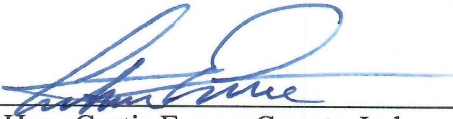
THE SECOND AMENDED ORDER WAS HEREBY APPROVED, ORDERED, AND ADOPTED on the 10th day of August, 2020, by a vote of 4 Ayes and 0 Nays, to be effective until 11:59 p.m. on September 14, 2020.

THE THIRD AMENDED ORDER WAS HEREBY APPROVED, ORDERED, AND ADOPTED on this the 28th day of September, 2020, by a vote of 5 Ayes and 0 Nays, to be effective retroactively from 12:01 a.m. on September 15, 2020 until 11:59 p.m. on October 15, 2020.

THE FOURTH AMENDED ORDER WAS HEREBY APPROVED, ORDERED, AND ADOPTED on this the 13th day of October, 2020, by a vote of 3 Ayes and 0 Nays, to be effective from 12:01 on October 16, 2020 until 11:59 p.m. on November 15, 2020.

THE FIFTH AMENDED ORDER WAS HEREBY APPROVED, ORDERED, AND ADOPTED on this the 9th day of November, 2020, by a vote of 4 Ayes and 1 Nay, to be effective from 12:01 on November 16, 2020 until 11:59 p.m. on December 15, 2020.

**THIS SIXTH AMENDED ORDER WAS HEREBY APPROVED, ORDERED,
AND ADOPTED** on this the 14th day of December, 2020, by a vote of 4 Ayes and
1 Nays, to be effective from 12:01 a.m. on December 16, 2020 until 11:59 p.m. on
January 15, 2021.



Hon. Curtis Evans, County Judge

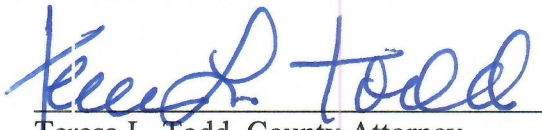
ATTEST:



Jennifer Wright, County and District Clerk

By: _____

APPROVED AS TO FORM:



Teresa L. Todd, County Attorney