

**ORDINANCE NO. 377**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANDERA AMENDING ORDINANCE NUMBER 376 AND APPROVING AND EXTENDING THE SECOND DECLARATION AND EMERGENCY ORDERS ISSUED BY SUZANNE SCHAUMAN, MAYOR OF THE CITY OF BANDERA TEXAS PURSUANT TO THE AUTHORITY VESTED IN HER UNDER SECTION 418.108 OF THE TEXAS GOVERNMENT CODE; RESTRICTING CERTAIN ACTIVITIES; PROVIDING AN EFFECTIVE DATE AND DECLARING AN EMERGENCY**

WHEREAS, Governor Greg Abbott of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID- 19) poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, in each subsequent month effective through today, Governor Abbott has renewed the disaster declaration for all Texas counties; and

WHEREAS, the Commissioner of the Texas Department of State Health Services (DSHS), Dr. John Hellerstedt, has determined that COVID-19 continues to represent a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code; and

WHEREAS, Governor Abbott has issued executive orders and suspensions of Texas laws in response to COVID- 19, aimed at protecting the health and safety of Texans and ensuring an effective response to this disaster; and

WHEREAS, Governor Abbott issued Executive Order GA-08 on March 19, 2020, mandating certain social-distancing restrictions for Texans in accordance with guidelines promulgated by President Donald J. Trump and the Centers for Disease Control and Prevention (CDC); and

WHEREAS, Governor Abbott issued Executive Order GA-14 on March 31, 2020, expanding the social distancing restrictions for Texans based on guidance from health experts and the President; and

WHEREAS, Governor Abbott subsequently issued Executive Orders GA-16, GA-18, GA-21, GA-23, and GA-26 from April through early June 2020, aiming to achieve the least restrictive means of combatting the threat to public health by continuing certain social-distancing restrictions, while implementing a safe, strategic plan to Open Texas; and

WHEREAS, as Texas reopens in the midst of COVID-19, increased spread is to be expected, and the key to controlling the spread and keeping Texas residents safe is for all Texans to consistently follow good hygiene and social-distancing practices, especially those set forth in the minimum standard health protocols from DSHS; and

WHEREAS, due to recent substantial increases in COVID-19 positive cases, and increases in the COVID-19 positivity rate and hospitalizations resulting from COVID 19, Governor Abbott has mandated targeted and temporary adjustments to the reopening plan to achieve the least restrictive means for reducing the growing spread of COVID- 19 and the resulting imminent threat to public health, and to avoid a need for more extreme measures; and

WHEREAS, Governor Abbott, issued revised orders GA-28, as amended to be followed on a statewide basis effective at noon on June 26, 2020; and

WHEREAS, among the provisions in Governor Abbott's order was a requirement that any outdoor gathering in excess of 10 people, other than those set forth specifically in said order, is prohibited unless the mayor of the city in which the gathering is held approves of the gathering, and such approval can be made subject to certain conditions or restrictions not inconsistent with Governor Abbott's executive order; and,

WHEREAS, under Section 418.108, the Mayor as the presiding officer of the governing body of a political subdivision may declare a local state of disaster and prescribe certain rules and regulations during such time of disaster.

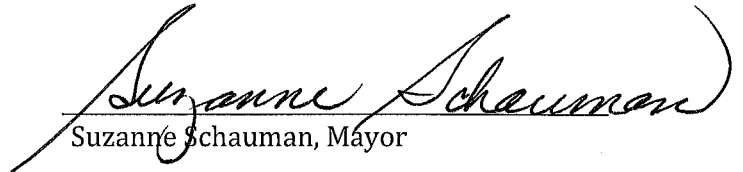
**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANDERA, TEXAS:**

- Section 1. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council.
- Section 2. That the local state of disaster and public health emergency and emergency orders issued by Mayor Schauman by virtue of the power and authority vested in her by the Constitution and laws of the State of Texas, and as specifically authorized by Governor Abbott's Executive Order GA-28, and as extended by the City Council, is hereby amended; and whereby certain rules and restrictions were enacted with regards to any gathering of people in excess of 10 within the City of Bandera, effective at 11:59 P.M on July 16, 2020, shall be extended until such time as Governor Abbott lifts the statewide emergency declaration as it relates to face covering or gatherings in excess of 10 persons without further restrictions, as set forth in the attached Exhibit A.
- Section 3. Pursuant to §418.108(c) of the Government Code, this declaration of a local state of disaster and public health emergency shall be given prompt and general publicity and shall be filed promptly with the City Secretary.
- Section 4. Pursuant to §418.108(d) of the Government Code, this declaration of a local state of disaster and public health emergency activates the City of Bandera, Texas, emergency management plan.
- Section 5. Pursuant to §122.006 of the Health and Safety Code, this declaration authorizes the City to take any actions necessary to promote health and suppress disease, including quarantine, examining and regulating hospitals, regulating ingress and egress from the City, and fining those who do not comply with the City's rules.
- Section 6. All ordinances or parts thereof, which 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 the matters herein except those portions deemed to conflict with GA-28, or any subsequent emergency orders of Governor Abbott.
- Section 7. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.
- Section 8. 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.

- Section 9. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, Texas Government Code, as amended.
- Section 10. Should Governor Abbott lift the statewide disaster orders now in place prior to the date of expiration stated herein, this ordinance shall no longer be subject to enforcement by the City and shall be repealed by the City Council at the first legally posted meeting thereafter.
- Section 11. Should the Bandera County Judge petition TDEM to exempt Bandera County from the face covering requirements of GA-29, then any conflicting face covering requirements set forth herein shall be effective only at such time that Bandera County is not exempt therefrom, excluding the regulation of gatherings over 10 persons.
- Section 12. That all law enforcement personnel of the City are authorized the enforce any emergency orders of the Governor or Health Authority of the State of Texas to the extent and in the manner authorized by same, and may enforce violations of this local ordinance as a Class C citation.
- Section 13. This Ordinance shall be in force and effect from its passage, and any publication required by law.

**PASSED, ADOPTED, and APPROVED the 23<sup>rd</sup> day of July, 2020.**

  
Suzanne Schauman, Mayor

ATTEST:

  
Jill Shelton, City Secretary

**EXHIBIT A**  
**I. BANDERA CITY PARK OCCUPANCY**

1. The total occupancy allowed for Bandera City Park shall be a maximum of SEVEN HUNDRED AND FIFTY (750) persons at any given time.
2. No single group of persons larger than TEN (10) is permitted without specific written permission for the gathering issued by Mayor Schauman pursuant to the rules and guidelines established below.
3. Guests, while in the park, should follow the health protocols from the Texas Department of State Health Services (DSHS) as stated by the Governor in GA-28, as may be amended.

**II. OUTDOOR GATHERINGS EXCEEDING TEN PERSONS, GENERALLY**

Outdoor gatherings exceeding ten persons must be specifically authorized by the Mayor to be held within the city of Bandera. (Events planned to be held in the County should be submitted to the County Judge for authorization.) When requesting written authorization from the Mayor, the designated event organizer must provide a detailed safety protocol plan demonstrating adherence to the DSHS Checklist for Outdoor Events and how the event organizer will assure compliance and enforcement of the protocol. The safety protocol must be submitted no less than five (5) days before the scheduled event and must specifically: provide the number of projected attendees and establish an attendance capacity to assure that social distancing will be maintained; discourage attendance by those over the age of 65; provide a site plan that establishes social distancing to the greatest degree possible; provide a specific face covering protocol.

Authorization or denial for individual events will be provided by the Mayor, in writing, within three (3) days of receiving a complete application containing each of the items set forth above. For purposes of written authorization, an email from the Mayor's City of Bandera email account shall suffice. The City Marshal, City Administrator, and City Secretary shall be copied on any approval or denial.

**III. FACE COVERING REQUIREMENTS APPLICABLE IN CONFORMANCE WITH THE ORDER OF GOVERNOR ABBOTT AND ENFORCED THROUGH LOCAL ORDINANCE AT ANY SUCH TIME THAT BANDERA COUNTY IS NOT EXEMPTED BY TDEM FROM GA-29 UPON PETITION OF THE COUNTY JUDGE**

**A. COMMERCIAL ENTITIES:**

1. All commercial entities in the City of Bandera providing goods or services directly to the public must develop, implement and post a health and safety policy. The Health and Safety Policy must require, at a minimum, that all employees or 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 six feet of separation is not feasible.

**B. PERSONS IN THE CITY OF BANDERA**

1. Every person in Bandera, 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.

2. The face covering requirement does not apply to:
  - a. any person younger than 10 years of age;
  - b. any person with a medical condition or disability that prevents wearing a face covering;
  - c. any person while the person is consuming food or drink, or is seated at a restaurant to eat or drink;
  - d. any person while the person is:
    - (i) exercising outdoors or engaging in physical activity outdoors, and
    - (ii) maintaining a safe distance from other people not in the same household;
  - e. any person while the person is driving alone or with passengers who are part 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 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;
  - 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, or actively administering an election, but wearing a face covering is strongly encouraged;
  - i. any person who is actively providing or obtaining access to religious worship, but wearing a face covering is strongly encouraged;
  - j. any person while the person is giving a speech for a broadcast or to an audience

**C. PENALTY AND ENFORCEMENT**

1. Violations of the provisions set forth in IV A and B are hereby found to constitute a violation of the local health and safety COVID-19 orders of Bandera and may be enforced as a violation of this local ordinance as a Class C misdemeanor, punishable by a fine not to exceed \$250.00.
2. It is the expressed intent of the City Council of Bandera to seek voluntary compliance with the orders of the Governor of the State of Texas and this ordinance, and utilize citations as a means of last resort to gain compliance. The safety of the citizens of Bandera is critical.
3. It is an affirmative defense to prosecution of any violation of Section IV that at the time of the citation, Bandera County was exempt from the general face covering requirements of GA-29. Such defense is unavailable for any violations of the provisions set forth in Sections I-III.