

ORDER BY THE COUNTY JUDGE OF HARRIS COUNTY
(Temporarily controlling the occupancy of a premises)

Whereas, in response to the COVID-19 pandemic, federal, state and local officials issued proclamations and declarations of disaster, and thereby invoked their respective emergency management plans to protect the public; and

Whereas, on January 31, 2020, the Secretary of Health and Human Services declared a public health emergency “in response to COVID-19, a highly contagious virus that spreads through person-to-person contact and continues to ravage communities across the globe”; and

Whereas, on March 11, 2020, Harris County Judge Lina Hidalgo issued a Declaration of Local Disaster for Public Health Emergency to allow Harris County to take measures to reduce the possibility of exposure to COVID-19 and promote the health and safety of Harris County residents in accordance with Section 418.108(a) of the Texas Government Code. The Declaration of Local Disaster has been subsequently extended by the Harris County Commissioners Court and it is currently in effect; and

Whereas, on March 13, 2020, Governor Greg Abbott issued a Declaration of State of Disaster, certifying under Section 418.014 of the Texas Government Code that COVID-19 poses an imminent threat of disaster for all counties in the State of Texas and to thus take additional steps to prepare for, respond to, and mitigate the spread of COVID-19 to protect the health and welfare of Texans. The Governor has extended the Declaration of State of Disaster each month and it is currently in effect; and

Whereas, in March 2020, the U.S. Centers for Disease Control and Prevention (“CDC”) issued guidance as to individuals, recommending that individuals practice social or physical distancing to prevent the spread of COVID-19 by staying at least six feet from other people, by refraining from gathering in groups, by staying out of crowded places and by avoiding mass gatherings; and

Whereas, on March 15, 2020, the CDC issued guidance as to large events, explaining that larger gatherings (for example, more than 250 people) offer more opportunities for person-to-person contact and therefore pose a greater risk of COVID-19 transmission and community spread; counseling that based upon what is currently known about the virus, spread from person-to-person happens most frequently among close contacts (within six feet); and urging organizers to continually assess whether to postpone, cancel, or significantly reduce (if possible) the number of attendees at larger gatherings; and

Whereas, on March 19, 2020, after determining that COVID-19 represents a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code, Texas Department of State Health Services (DSHS) Commissioner John Hellerstedt issued the first Public Health Disaster Declaration released in the State of Texas since 1901. The Public Health Disaster Declaration has been extended; and

Whereas, Governor Abbott subsequently issued Executive Orders GA-16, GA-18, GA-21, GA-23, GA-26, GA-28, GA-29, GA-30, and GA-32, and related Proclamations, aiming to achieve the least restrictive means of combatting COVID-19's continuing threat to public health by continuing certain social-distancing and facial covering restrictions; and

Whereas, on June 11, 2020, Harris County implemented a Harris County COVID-19 Threat Level System that provides color coded levels of risk based on the incidence of COVID-19 and its transmission level in Harris County and provides corresponding recommendations to the public.¹ At the time of implementation of the Harris County COVID-19 Threat Level System, Harris County was at a Level 2, Significant Uncontrolled Community Transmission; and

Whereas, on June 26, 2020, the Harris County Judge elevated Harris County's COVID-19 threat level to Level 1 (Red – “severe uncontrolled community transmission” presenting a severe threat to public health), given the rapidly accelerating outbreak in COVID-19 cases in Harris County and the resulting strain on local hospitals' capacity and local public health departments' testing and contact tracing capacity. Harris County's COVID-19 threat level has remained at Level 1 through the date of this Order; and

Whereas, on September 18, 2020, the Texas Supreme Court issued its Twenty-Sixth Emergency Order regarding the COVID-19 State of Disaster, which provides, among other things, that courts: must not conduct in-person proceedings contrary to guidance issued by the Office of Court Administration regarding social distancing, maximum group size and other restrictions and precautions; “must not hold a jury proceeding, including jury selection or a jury trial, prior to December 1, except as authorized by this Order”; and “must take any other reasonable action to avoid exposing court proceedings to the threat of COVID-19”; and

Whereas, Governor Abbott's Executive Order GA-32, which the Governor issued October 7, 2020 and is still in effect, provides that “failure to comply with any executive order issued during the COVID-19 disaster is an offense punishable under Section 418.173 by a fine not to exceed \$1,000, and may be subject to regulatory enforcement”; and

Whereas, GA-32 lifted some restrictions related to occupancy of premises; however GA-32 still provides: “For any outdoor gathering in excess of 10 people...other than those set forth above in paragraph Nos. 1, 3, or 4 [of the executive order], the gathering 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 this executive order.”; and

Whereas, on January 14, 2021, the Texas Supreme Court issued its Thirty-Third Emergency Order regarding the COVID-19 State of Disaster, renewing its Twenty-Ninth Emergency Order as amended until April 1, 2021; and

Whereas, the transmission of COVID-19 has not dissipated but remains a significant threat to the health and safety of the Harris County Community and rates of infection are increasing at

¹ See https://www.readyharris.org/Portals/60/documents/INFO_ReopeningStrategyPUBLIC-FULL.pdf

an alarming rate and the number of people ending up in the hospital, ICU, or on ventilators is also dramatically rising despite efforts by local authorities to control the spread; and

Whereas, on 12 out of 19 days in January, Harris County had a higher rolling average number of new cases than the rolling average number of new cases for December; and

Whereas, on 21 days out of 21 days in January, Harris County had a higher average of COVID-19 ICU bed usage than the average of COVID-19 ICU bed usage for December; and

Whereas, on 14 days out of 18 days in January, Harris County had a higher rolling average Positivity Rate than the average Positivity Rate for December; and

Whereas, on 21 days out of 21 days in January Harris County had a higher rolling average of hospitalizations than the average number of hospitalizations for December; and

Whereas, on January 24, 2021, 2,210 people were hospitalized with COVID-19 and 559 ICU beds were used for COVID-19 patients. This represents a 12% increase over the average number of hospitalizations over the 14 day period from January 10, 2021 through January 23, 2021 and a 57% increase over the average number of hospitalizations over the 30 day period from December 25, 2020, through January 23, 2021. The ICU bed usage represents a 13% percent increase over the average ICU bed usage over the 14 day period and a 40% increase over the 30 day period; and

Whereas, on January 24, 2021, there were 26,788 active cases. This represents a 33% percent increase over the number of active cases during the 14 day period from January 10, 2021 through January 23, 2021 and an 87% increase over the 30 day period from December 25, 2020 through January 23, 2021; and

Whereas, from January 4, 2021 through January 17, 2021, Harris County averaged 1,228 new cases each day. The daily average positivity rate from January 4, 2021 through January 17, 2021 was 19%; and

Whereas, the County Judge has determined that extraordinary emergency measures must be taken to try and mitigate the effects of this public health emergency and to facilitate a response to the public health threat; and

Whereas, the Texas Disaster Act is codified at Section 418.001, *et seq.* of the Texas Government Code; and

Whereas, upon Declaration of a Local Disaster, a County Judge is authorized to control ingress to and egress from a disaster area and control the movement of persons and the occupancy of premises in accordance with Section 418.108(g) of the Texas Government Code; and

Whereas, a County Judge acts as the emergency management director for the county and serves as the Governor's designated agent in the administration and supervision of duties during a state of emergency declared by the Governor in accordance with Section 418.1015(a) and (b) of the Texas Government Code; and

Whereas, a County Judge, serving as the Governor’s designated agent in the administration and supervision of duties during a state of emergency declared by the Governor, “may exercise the powers granted to the governor under this chapter on an appropriate local scale” in accordance with Section 418.1015(b) of the Texas Government Code; and

Whereas, a County Judge, serving as the Governor’s designated agent in the administration and supervision of duties during a state of emergency declared by the Governor, is authorized to control ingress to and egress from a disaster area and control the movement of persons and the occupancy of premises on an appropriate local scale in accordance with Sections 418.1015 and 418.018 of the Texas Government Code; and

Whereas, pursuant to Section 51.002 of the Texas Property Code, a sale of real property under a power of sale conferred by a deed of trust or other contract lien must be a public sale at auction held between 10 a.m. and 4 p.m. of the first Tuesday of a month at a place designated by Commissioners Court; and

Whereas, pursuant to Section 34.01 of the Texas Property Tax Code, real property ordered sold pursuant to foreclosure of a tax lien shall be sold in the manner similar property is sold under execution; and

Whereas, pursuant to Section 34.041 of the Texas Civil Practice and Remedies Code, a sale of real property that is required by court order or other law must take place between 10 a.m. and 4 p.m. on the first Tuesday of a month at a place designated by Commissioners Court; and

Whereas, Commissioners Court has designated the Bayou City Event Center and Bayou City Event Center Pavilion at 9401 Knight Road, Houston Texas 77045 as the place for the sales described herein to occur; and

Whereas, February 2, 2021 is the first Tuesday of the month and the sales described herein are conducted by numerous parties who each send one or more representatives or employees to the sale, and attract hundreds of attendees who stand in close proximity to other attendees to participate in the sale; and

Whereas, it would be impossible to conduct the sales described herein in accordance with federal, state, and local executive orders and guidance on social distancing; and

Whereas, the Harris County Judge finds that to effectuate the Governor’s Executive Order GA-32, the Bayou City Event Center should not be accessed by the public from 7 a.m. to 5:00 p.m. on February 2, 2021, for the purpose of conducting the sales described herein, in accordance with Sections 418.018, 418.108(g) and 418.1015 of the Texas Government Code.

NOW THEREFORE, I, COUNTY JUDGE FOR HARRIS COUNTY, TEXAS, PURSUANT TO THE AUTHORITY VESTED BY TEXAS GOVERNMENT CODE CHAPTER 418, HEREBY FIND AND ORDER:

SECTION 1. That 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 County Judge and made a part hereof for all purposes.

SECTION 2. That the Bayou City Event Center at 9401 Knight Road, Houston Texas 77045 shall not be accessed by the public from 7 a.m. to 5:00 p.m. on February 2, 2021 for the purpose of conducting the sales described herein.

SECTION 3. That the actions required by this Order are undertaken in deference to Governor Abbott's executive orders and are intended to be consistent with such executive orders in all respects.

SECTION 4. This Order is effective upon signing, and will continue in effect until 5:00 p.m. February 2, 2021, unless rescinded, superseded, or amended pursuant to applicable law.

SECTION 5. The Harris County Judge will file this Order with the Harris County Clerk's Office.

SECTION 6. Harris County will post this Order on the Internet. In addition, the owner, manager, or operator of any facility that is likely to be impacted by this Order is strongly encouraged to post a copy of this Order onsite and to provide a copy to any member of the public asking for a copy. If any subsection, sentence, clause, phrase, or word of this 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 Order.

ORDERED at 5:00 p.m. on this the 29th day of January, 2021, in the County of Harris, Texas.

IT IS SO ORDERED.



LINA HIDALGO
HARRIS COUNTY JUDGE