



# City of San Marcos

630 East Hopkins  
San Marcos, TX 78666

## Special Meeting - Final City Council

MEETING IS VIRTUAL stream online at [www.sanmarcostx.gov/videos](http://www.sanmarcostx.gov/videos) or watch on Grande channel 16 or Spectrum channel 10

Tuesday, March 24, 2020

4:00 PM

City Council Chambers

### 630 E. Hopkins - Special Meeting

#### I. Call To Order

#### II. Roll Call

1. Receive status reports and updates on response to COVID-19 pandemic; hold council discussion, and provide direction to Staff.
2. Discuss the Governor's proclamation regarding the resetting of elections to be held on May 2, 2020 as it applies to the scheduled special election to fill the vacancy for Place 5 on the City Council, and provide direction to Staff.

#### III. Adjournment.

**NOTE: The City Council may adjourn into Executive Session to consider any item**

**POSTED ON FRIDAY, MARCH 20, 2020 @ 12:00PM**

**TAMMY K. COOK, INTERIM CITY CLERK**

#### Notice of Assistance at the Public Meetings

The City of San Marcos does not discriminate on the basis of disability in the admission or access to its services, programs, or activities. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 855-461-6674 or sent by e-mail to [ADArequest@sanmarcostx.gov](mailto:ADArequest@sanmarcostx.gov)



## Legislation Text

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**File #:** ID#20-130, **Version:** 1

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**AGENDA CAPTION:**

Receive status reports and updates on response to COVID-19 pandemic; hold council discussion, and provide direction to Staff.

**Meeting date:** March 24, 2020

**Department:** City Manager Office/Office of Emergency Management

**Amount & Source of Funding**

**Funds Required:** Click or tap here to enter text.

**Account Number:** Click or tap here to enter text.

**Funds Available:** Click or tap here to enter text.

**Account Name:** Click or tap here to enter text.

**Fiscal Note:**

**Prior Council Action:** Click or tap here to enter text.

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
- Core Services
- Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

Click or tap here to enter text.

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Click or tap here to enter text.

# City of San Marcos

## COVID-19 Update

March 24, 2020

# Status Report

## Item 1

Receive status reports and updates on response to COVID-19 pandemic; hold council discussion, and provide direction to Staff.

# Governor Abbott Issues Executive Orders In Accordance With Federal Guidelines To Mitigate Spread Of COVID-19 In Texas (Thursday 3/19)

- **Order No. 1:** every person in Texas shall avoid social gatherings in groups of more than 10 people.
- **Order No. 2:** people shall avoid eating or drinking at bars, restaurants, and food courts, or visiting gyms or massage parlors; provided, however, that the use of drive-thru, pickup, or delivery options is allowed and highly encouraged
- **Order No. 3:** people shall not visit nursing homes or retirement or long-term care facilities unless to provide critical assistance.
- **Order No. 4:** schools shall temporarily close.

# Governor Abbott Issues Executive Orders In Accordance With Federal Guidelines To Mitigate Spread Of COVID-19 In Texas (Sunday 3/22)

- **Order No. 5:** cancellation or postponement of all medical procedures not medically necessary
- **Order No. 6:** allowance for hospitals to maximize available bed space by caring for more than 1 patient per room

## **Known Cases – as of Monday 3/23 at 4:00 p.m.**

- **33,404 U.S. cases with at least 400 deaths in 54 states or territories including D.C.**
- **352 cases in 46 Texas counties with 8 deaths**
- **7 in Hays County**
  - 68 tests returned negative
  - 5 still awaiting results
  - Original Hays patient has now been symptom-free for 5 days

## **Timeline of events**

- **3/14 – Hays County reports its first presumptive case of COVID-19, also known as Coronavirus**
- **3/15 - Mayor and County Judge declared state of disaster on Sunday**
- **3/16 - Mayor signed order related to limitations on gatherings larger than 50 people**
- **3/17 – Mayor signed revised order limiting gathering larger than 10 people, closing bars**
- **3/17 – President’s 15 Days to Slow the Spread**
- **3/19 – Governor Abbott’s first four orders**
- **3/19 – Hays County Judge Ruben Becerra issued county-wide order (restaurant dining rooms, bars, day cares)**
- **3/22 – Governor Abbott’s second set of orders**

# Mayor Authority

- Summary Discussion

## Efforts to date

- **Emergency management and response staff participating in multiple daily calls**
- **Monday 3/16 - Facility Closures with high public access like the Library and Activity Center and Pool**
- **Friday 3/20 - Public Facing City Counters Closure**
  - Include Utility Billing, most of City Hall, as well as our public counters in the Municipal Building, Grant Harris Building and others.
- **City Director team meeting via remote conference daily and established measures to protect employees**
  - Virtual Meetings
  - Changes to delivery of services
  - Teleworking and Shift work separation
- **3/23 Successful test of Zoom remote meeting for Council**

## **Other local efforts**

- **Hays County**
  - Joint EOC remains open at level 1 but has transitioned to virtual activation
  - Daily elected officials call at 10:45 available to all elected officials within the county
- **San Marcos Consolidated Independent School District closed until April 5**
  - Working with instructional staff to develop plans for distance learning
  - Providing drive-through meal service (Monday 150 breakfasts and 500 lunches)
- **Texas State University extended Spring Break through March 27**
  - Remote instruction beginning Monday, March 30 through at least April 12 to enable social distancing measures on campus

# Additional City actions

- **Enhanced City Website with resources**
  - CDC Safety Recommendations
  - Frequently Asked Questions for Covid-19
  - Resident Resources
    - Hays County Food Bank, United Way info
    - Lunch provided by schools
    - Operating restaurants downtown San Marcos
    - Library Resource Guide in English and Spanish
  - Business Resources
    - Greater San Marcos Partnership link
    - Small Business Administration assistance link
    - Convention and Visitor Bureau link
  - Hays Informed website link
  - Infographics (downloadable flyers)
  - Important Information and Press Releases

## Additional City actions

- **City is suspending utility disconnections due to the effects the COVID-19 crisis may have on customers.**
  - Customers are encouraged to pay their bill by phone at 512-393-8333 or online at <https://ipn.paymentus.com/cp/csmu>
- **3/24 – Closure of all playgrounds and certain parks facilities where people are more likely to gather in close proximity:**
  - Playgrounds
  - Dog and Skate parks
  - Park restrooms

## Additional City actions

- **3/24 – Don't Touch Campaign**
  - To encourage the public to wash their hands after touching store handles and other high traffic touch points
  - Also encourages the public to use a glove, napkin or even their sleeve to open the door to prevent direct skin contact with the handle



# Helpful community links

- <http://www.sanmarcostx.gov/covid19info>
- <http://haysinformed.com/health-update/>
- <https://hayscountytexas.com/covid-19-information-for-hays-county-residents/>
- <https://www.smcisd.net/>
- <https://www.dshs.texas.gov/coronavirus/>

# Question & Answer

# City of San Marcos

## COVID-19

### Financial Assistance Strategies

March 24, 2020

# Financial Assistance Strategies

Categorized as:

- those that are already being implemented,
- those recommended by staff to pursue,
- those that require more analysis, and
- those that are not recommended or not feasible due to current regulations.

Based on guidance to be provided by City Council, staff is prepared to move forward with selected strategies that can be implemented administratively. Those requiring an ordinance amendment will be brought forward for Council consideration.

# IMPLEMENTED STRATEGIES

- **Local Strategy: Temporarily Halt Utility Service Disconnections for Nonpayment**
  - Utility service is disconnected 28 days after the bill due date. To provide relief for those that are not able to pay for utility services, there will be a temporary freeze on utility disconnects for the next 90 days at which time this strategy will be re-evaluated.
  
- **Local Strategy: Utility Bill Payment Arrangements**
  - In addition to the freeze on utility disconnects, we ask that any customer impacted by COVID19 needing assistance paying their utility bill to please call 512-393-8383 to request payment arrangements.

➤ **Local Strategy: Waive or Reduce Utility Bill Late Fees**

- This strategy includes, on a case-by-case basis, waiving or reducing the late fees for utility bills that are delinquent.
- Payment plans can be arranged that provide a longer time period for utility payments to be made.

➤ **Local Strategy: Hotel Occupancy Tax (HOT) - Waive or Modify Late Payment Penalties**

- Currently, the CoSM fee structure imposes a 15% penalty due in addition to the amount of tax owed if the tax payment is paid or postmarked after the due date.
- There is also an additional charge starting 60 days after the due date that is 1% per month of the total amount due, including penalties.
- A comprehensive analysis is recommended to compare CoSM late fee policies to other communities to ensure best practice.

**For both of the above strategies, late fees could be deferred for 90 days pending re-evaluation at that time.**

## **STRATEGIES REQUIRING ADDITIONAL ANALYSIS**

### ➤ **Local Strategy: Re-allocate CDBG Funds**

Staff would need to assess the current funding plan and determine if Community Development Block Grant (CDBG) funds can be shifted to other eligible activities.

1. Provision of assistance to private, for-profit entities when appropriate to carry out an economic development project.
2. Provision of new or quantifiably increased public services.

### ➤ **Local Strategy: Grants and Loans**

Staff needs to research the City's options to work with our local financial sector on arranging concessionary loans.

## **STRATEGIES REQUIRING ADDITIONAL ANALYSIS**

### ➤ **Local Strategy: Increase City Manager Authority**

This strategy would increase the amount of individual purchases the City Manager is authorized to approve (for example, \$500,000) for general expenditures related to response activities during the disaster period.

### ➤ **Local Strategy: Strategic Initiative Funding/Special Economic Development Fund**

Reviewing the Strategic Initiative and Special Economic Development funding, there is \$140K currently reserved/requisitioned, resulting in \$660K available in total.

# **NOT RECOMMENDED/NOT FEASIBLE UNDER CURRENT REGULATIONS**

- **Property Tax, Sales Tax, Utility Rates reductions**
- **Hotel Occupancy Tax – Postpone Collection of Hotel Taxes**
- **Issue Certificates of Obligation for Business Assistance**

# ADDITIONAL STATE AND FEDERAL EFFORTS

## ➤ State Strategies:

- Small Business Loans
- Unemployment/Job Seeking

## ➤ Federal Strategies:

- IRS Tax Relief
- Federal Strategy: Temporary Paid Leave Requirement

# Helpful community links

- <http://www.sanmarcostx.gov/covid19info>
- <http://haysinformed.com/health-update/>
- <https://hayscountytexas.com/covid-19-information-for-hays-county-residents/>
- <https://www.smcisd.net/>
- <https://www.dshs.texas.gov/coronavirus/>

# Feedback



# MEMO

**To:** The Honorable Mayor and City Council  
**FROM:** Bert Lumbreras, City Manager  
**DATE:** March 23, 2020  
**RE:** COVID-19 Financial Assistance Strategies

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## SUMMARY

COVID-19, or the Coronavirus, has had broad, significant effects on every aspect of daily life across the globe. San Marcos is also feeling those impacts, and that includes local businesses. This memo lists many of the suggestions that have been proposed over the past week in order to assist the local business community and residents. The strategies are divided into four categories:

- those that are already being implemented,
- those recommended by staff to pursue,
- those that require more analysis, and
- those that are not recommended or not feasible due to current regulations.

Based on guidance to be provided by City Council, staff is prepared to move forward with selected strategies that can be implemented administratively. Those requiring an ordinance amendment will be brought forward for Council consideration at your next meeting.

In addition to local strategies under consideration, there is a list of State and Federal efforts at the end of this memo.

## IMPLEMENTED STRATEGIES

### **Local Strategy: Temporarily Halt Utility Service Disconnections for Nonpayment**

Per Municipal Code Sec. 86.200 (d), City utility service is disconnected 28 days after the bill due date. To provide relief for those that are not able to pay for utility services, there will be a temporary freeze on utility disconnects for the next 90 days at which time this strategy will be re-evaluated.

### **Local Strategy: Utility Bill Payment Arrangements**

In addition to the freeze on utility disconnects, we ask that any customer impacted by COVID19 needing assistance paying their utility bill to please call 512-393-8383 to request payment arrangements.

## **RECOMMENDED STRATEGIES**

### **Local Strategy: Utility Bill Late Fees**

This strategy includes waiving or reducing, on a case-by-case basis, the late fees for utility bills that are delinquent. Approximately \$75K in late fees are collected per month, and this amount is likely to increase due to the current economic conditions. Payment plans can be arranged that provide a longer time period for utility payments to be made.

### **Local Strategy: Hotel Occupancy Tax (HOT) - Waive or Modify Late Payment Penalties**

Currently, the CoSM fee structure imposes a 15% penalty due in addition to the amount of tax owed if the tax payment is paid or postmarked after the due date. HOT is due monthly by the 20th. There is also an additional charge starting 60 days after the due date that is 1% per month of the total amount due, including penalties. Late fees paid in FY2019 for HOT were approximately \$39K. Late payment penalties are outlined in Sections 78.103(e) and 78.103(f) of the City Code. A comprehensive analysis is recommended to compare CoSM late fee policies to other communities to ensure best practice.

For both of the above strategies, late fees could be waived or deferred for 90 days pending re-evaluation at that time.

## **STRATEGIES REQUIRING ADDITIONAL ANALYSIS**

### **Local Strategy: Re-allocate CDBG Funds**

Staff would need to assess the current funding plan and determine if Community Development Block Grant (CDBG) funds can be shifted to other eligible activities. These include:

1. Provision of assistance to private, for-profit entities when appropriate to carry out an economic development project.
  - prevent job loss caused by business closures related to social distancing by providing short-term working capital assistance to small businesses to enable retention of jobs held by low to moderate income persons.
  - provide technical assistance, grants, loans and other financial assistance to establish, stabilize and expand microenterprises that provide medical, food delivery, cleaning and other services to support home health and quarantine.
  
2. Provision of new or quantifiably increased public services
  - deliver meals on wheels to quarantined individuals or individual that need to maintain social distancing due to medical vulnerabilities
  - provide equipment, supplies and materials necessary to carry out a public service.

### **Local Strategy: Grants and Loans**

Staff needs to research the City's options to work with our local financial sector on arranging concessionary loans.

**Local Strategy: Increase City Manager Authority**

This strategy would increase the amount of individual purchases the City Manager is authorized to approve (for example, \$500,000) for general expenditures related to response activities during the disaster period. This could include fees, professional services, personal services, and other categories exempted from the bid process by the Local Government Code Section 252.022. Strategy would serve to expedite City purchasing.

**Local Strategy: Strategic Initiative Funding/Special Economic Development Fund**

Reviewing the Strategic Initiative and Special Economic Development funding, there is \$140K currently reserved/requisitioned, resulting in \$660K available in total. The breakdown is as follows:

- Workforce Housing:	\$325K budget	\$ 0K spent
- Workforce Development:	\$ 75K budget	\$ 0K spent
- Multi-Modal Transportation:	\$100K budget	\$100K reserved
- Downtown Vitality:	\$200K budget	\$ 40K requisition
- Special Economic Development Fund:	\$100K budget	\$ 0K spent

The \$100K reserved for the Multi-Modal Transportation initiative is reserved as a potential match for a TXDOT grant opportunity to support the Highway 80 Shared Use Path. Staff is getting a legal opinion on the potential uses of these funds for community assistance needs.

**NOT RECOMMENDED/NOT FEASIBLE UNDER CURRENT REGULATIONS**

**Local Strategy: Waive/Lower Property Tax, Sales Tax, Utility Rates**

Multiple requests have been made regarding waiving or lowering the property tax, sales tax, or utility rates for a certain industry or specific area of the City. This approach is not currently recommended due to the composition of the City’s revenue streams and the resulting effect on City finances. In addition, making a modification in the tax collected or utility rate charged for one industry or area raises equity issues.

Per the Hays Central Appraisal District, the impact on property market values cannot be reflected until the 2021 appraisals are completed based on data gathered this year. There are at present no known provisions in the Property Tax Code that allow for reduced values for 2020 based on an event such as we are experiencing. It is the Appraisal District counsel’s opinion that Section 23.02 of the Property Tax Code creating reappraisal protocols for property “damaged” during a natural disaster is not applicable.

**Local Strategy: Hotel Occupancy Tax – Postpone Collection of Hotel Taxes**

If zero payments were to be received for March, it would be an approximately \$150K impact to revenue just for that month. The impact would be significant and would likely require staff reductions and significant changes to operations for the Convention and Visitors Bureau, Arts, and Main Street.

A communication from TML stated the mayor has the legal authority to suspend the provisions of regulatory statutes concerning local business if strict compliance with those provisions would prevent or hinder the disaster response, like a local hotel occupancy tax ordinance, under Texas Gov’t Code § 418.016(a). Staff recommends using the state comptroller’s office as a guideline. That office has not postponed any payments or waived any late fees for taxes.

### **Local Strategy: Issue Certificates of Obligation for Business Assistance**

Consider using CO proceeds to make loans or grants to businesses or to fund economic development programs related to COVID-19. Texas Local Government Code section 271.045 states that Certificates of Obligation (CO) may only be issued to pay contractual obligations incurred for:

1. Construction of public works
2. Purchase of materials, supplies, equipment, machinery, buildings, land and rights-of-way for authorized needs and purposes
3. Payment of contractual obligations for professional services

Texas law pertaining to the issuance of certificates of obligation, would not authorize their use for making loans or grants to businesses. Furthermore, Article 3, Section 52-a of the Texas Constitution specifically prohibits cities and counties from making economic development loans or grants with the proceeds of bonds or other obligations backed by a pledge of ad valorem tax revenues without voter approval.

### **ADDITIONAL STATE AND FEDERAL EFFORTS**

#### **State Strategy: Small Business Loans**

Governor Abbott has announced that the U.S. Small Business Administration (SBA) has now granted Texas' Economic Injury Disaster Loan (EIDL) assistance declaration, making loans available statewide to small businesses and private, non-profit organizations to help alleviate economic injury caused by the Coronavirus (COVID-19).

- Use of Loan – working capital
- Credit History – applicants must have a credit history acceptable to SBA
- Repayment – applicants must show the ability to repay the loan collateral – required for loans over \$25,000 but the SBA will not decline a loan for lack of collateral
- Term – the longest loan term is 30 years
- Loan Limit – the max loan amount is \$2,000,000
- Interest – 3.75% for small businesses and 2.75% for private non-profit organizations  
<https://sanmarcostexas.com/small-business-resources-3/>

#### **State Strategy: Unemployment/Job Seeking**

If someone's employment has been affected by COVID-19, the Texas Workforce Commission (TWC) encourages them to apply for benefits by utilizing the online claim portal, or by calling the Tele-Center at 800-939-6631 from 8 a.m. to 6 p.m., Central Standard Time, Monday through Friday. For additional information and resources for job seekers, visit TWC's webpage: <https://twc.texas.gov/news/covid-19-resources-job-seekers>.

#### **Federal Strategy: IRS Tax Relief**

- IR-2020-58, Tax Day is now July 15: Treasury, IRS extend filing deadline and federal tax payments regardless of amount.
- IR-2020-57, Treasury, IRS and Labor announce plan to implement Coronavirus-related paid leave for workers and tax credits for small and midsize businesses to swiftly recover the cost of providing Coronavirus-related leave.
- Treasury News Release: Treasury and IRS Issue Guidance on Deferring Tax Payments Due to COVID-19 Outbreak.
- IR-2020-54, IRS: High-deductible health plans can cover coronavirus costs.  
<https://www.irs.gov/coronavirus>

**Federal Strategy: Temporary Paid Leave Requirement**

Private sector employers with fewer than 500 employees and all government employers must grant temporary paid leave. Leave applies when an employee is unable to work (or telework) in the following instances:

- for an employee who is subject to a federal, state or local quarantine or isolation related to the coronavirus, has been advised by a healthcare provider to self-quarantine due to the coronavirus, or is experiencing symptoms of the coronavirus and seeking a medical diagnosis;
- to care for a family member under the same circumstances; or
- to care for an employee's child whose school/childcare provider has been closed due to the coronavirus.



# MEMO

**TO:** The Honorable Mayor Hughson and City Council Members  
**FROM:** Chase Stapp, Director of Public Safety  
**VIA:** Bert Lumbreras, City Manager  
**DATE:** March 22, 2019  
**RE:** Mayor's Authority During Disaster

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This memo is being provided as supplemental material for a discussion during the special City Council meeting to be held on Tuesday, March 24, 2020. Some of you have asked for a summary of the information provided at the last City Council meeting on this topic, and this memo will help to provide that summary.

## **Declaration of Disaster (Sec 418.108 Texas Government Code)**

The various authorities described within this memo and that we will discuss during the meeting on Tuesday follow only after a properly executed declaration of disaster for the local community. This process is described in Chapter 418 of the Texas Government Code. Mayor Hughson first completed an order declaring a local state of disaster on Sunday, March 15, 2020 related to the COVID-19 pandemic. That order was extended by Council action on Tuesday, March 17, 2020. Chapter 418 also grants the full authority of the Governor of Texas to Mayor Hughson during the course of the disaster period with regard to her actions affecting the City of San Marcos. The remainder of this memo will summarize the range of those powers found in Texas law.

## **Suspension of Rules (418.016 Government Code)**

This section of the code allows the Governor, and by extension the Mayor, to suspend certain rules that are normally in effect during times of normal government operation. Examples of these rules are those which prohibit the delivery of alcohol by restaurants. We saw Governor Abbott suspend that rule last week in an effort to encourage the use of take-out and delivery services not normally offered by local restaurants. Similarly, Mayor Hughson may suspend rules found in our Code of Ordinances normally intended to provide regulatory procedures for our community. A complete list of examples for this would be very lengthy because it would be conceivably be directly correlated to every section of our Code of Ordinances. For the purpose of this discussion, the following examples were taken from recent Council activity in the City of Denton:

- All City Committee, Commission, and Board meetings are suspended through the term of this order, with the exception of the Planning and Zoning Commission,

which shall meet only to consider applications subject to state law-imposed deadlines;

- City Council meetings shall be rescheduled as posted and may be conducted in accordance with alternate measures as permitted by law;
- Only electronic purchasing submissions shall be accepted;
- No development applications, variance applications, certificate of appropriateness applications, or administrative appeals requiring approval from the Planning and Zoning Commission, Zoning Board of Adjustment, Historic Preservation Commissions, or the City Council shall be accepted for the term of this Order;
- The City Manager or his designee is authorized to make application for local, state, and federal assistance as necessary and/or applicable;
- The City Manager or his designee is authorized to accept on behalf of the City services, gifts, grants, equipment, supplies, and/or materials whether from private, nonprofit, or government sources;
- The City Manager or his designee is authorized to terminate or suspend any event that is or may negatively impact the health, safety, and welfare of persons within the City; and
- The City Manager is authorized to approve individual purchases up to \$500,000.00 for general expenditures, which includes: fees, professional services, personal services, and other categories exempted from the bid process by the Local Government Code Section 252.022.

### **Use of Public and Private Resources (418.017 GC)**

This section allows the Governor, and by extension the Mayor, to reallocate both public and private resources to the efforts of dealing with the emergency at hand. For example, the Mayor may order that equipment and resources not normally used by emergency services personnel be temporarily put in service for that purpose. She may also commandeer private resources as may be urgently necessary for use in dealing with the disaster. Although this type of activity would be used as a last resort, it is important to note that the authority is present and would, in most instances, require compensation.

### **Restrictions on Movement of People (418.018 GC)**

The Governor, and by extension the Mayor, may recommend the evacuation of all or part of a stricken or threatened portion of the community. She may also recommend transportation routes into and out of the affected area and prohibit ingress and egress from an affected area.

### **Restrictions on the Sale of Certain Materials (418.019 GC)**

The Governor, and by extension the Mayor, may suspend the sale and transportation of certain items such as alcoholic beverage, ammunition, firearms, explosive, and combustibles. This type of activity would be extremely rare even at the state level and generally would not be implemented solely at the local level.

## **Establishment of Temporary Housing and Emergency Shelters (418.020 GC)**

This section gives all political subdivision of the State the authority to acquire by lease, purchase, or other means properties needed for the emergency sheltering of disaster victims such as of those under quarantine. It also makes it clear that expenses incurred by the political subdivision both in acquiring and managing said properties may be reimbursed by emergency grant funds.

## **Issuance of Directives (Sec 433.002 GC)**

This section provides that the Governor, and by extension the Mayor, may put any of the above-described actions along with other specifically listed related actions into place by issuing directives or orders and publishing those in the newspaper, on television or radio, or by posting them publicly. Specifically mentioned are the following actions:

- (1) control of public and private transportation in the affected area;
- (2) designation of specific zones in the affected area in which, if necessary, the use and occupancy of buildings and vehicles may be controlled;
- (3) control of the movement of persons;
- (4) control of places of amusement or assembly;
- (5) establishment of curfews;
- (6) control of the sale, transportation, and use of alcoholic beverages, weapons, and ammunition, except as provided by Section 433.0045 (Firearms); and
- (7) control of the storage, use, and transportation of explosives or flammable materials considered dangerous to public safety.

## **Powers of Home Rule Cities (Section 122.006, Texas Health and Safety Code)**

This section of the Health and Safety Code gives specifically home rule cities the authority to draft rules for the protection of public health including those related to quarantine and the establishment of emergency hospitals. Quarantine rules could include measures such as those already promulgated in other cities, state-wide in some states, and in Italy that prohibit individuals from leaving their homes except for essential purposes such as buying groceries, going to pharmacies, or seeking medical attention/treatment.

Together, all of these rules allow the Mayor, as Emergency Management Director, to take swift and sometimes drastic actions as reasonable and necessary to protect the community in times of disaster. To date, Mayor Hughson has used her authority to enact some of these restrictions in San Marcos. Examples are the restriction against gatherings of more than 10 people, the closure of bars, and the declaration of a local state of disaster. She has carefully consulted with her public safety, emergency management, and executive leadership staff members before making these difficult decisions. Moving forward, should additional restrictions be deemed necessary, she may elect to take those steps while consulting with those same staff members.

As always, I am available to answer any questions related to this topic.



## Legislation Text

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**File #:** ID#20-131, **Version:** 1

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**AGENDA CAPTION:**

Discuss the Governor's proclamation regarding the resetting of elections to be held on May 2, 2020 as it applies to the scheduled special election to fill the vacancy for Place 5 on the City Council, and provide direction to Staff.

**Meeting date:** March 24, 2020

**Department:** City Clerk/City Attorney

**Amount & Source of Funding**

**Funds Required:** Click or tap here to enter text.

**Account Number:** Click or tap here to enter text.

**Funds Available:** Click or tap here to enter text.

**Account Name:** Click or tap here to enter text.

**Fiscal Note:**

**Prior Council Action:** Ordered the May 2, 2020 Special Election on Tuesday, March 17, 2020

**City Council Strategic Initiative:** [Please select from the dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
- Core Services

Not Applicable

**Master Plan:** *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

**Background Information:**

Election Advisory No. 2020-12 was emailed to the City Council on Wednesday, March 18, 2020 regarding the postponement of the May 2, 2020 Election to November 3, 2020. Pursuant to Section 418.016 of the Texas Government Code, the Governor has issued a proclamation suspending certain provisions of the Texas Election Code and the Texas Water Code to allow all local political subdivisions that are utilizing the May 2, 2020 uniform election date to postpone their election to the November 3, 2020 uniform election date.

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Click or tap here to enter text.

# The State of Texas

Elections Division  
P.O. Box 12060  
Austin, Texas 78711-2060  
www.sos.texas.gov



Phone: 512-463-5650  
Fax: 512-475-2811  
Dial 7-1-1 For Relay Services  
(800) 252-VOTE (8683)

Ruth R. Hughs  
Secretary of State

## ELECTION ADVISORY

### NO. 2020-12

TO: Election Officials

FROM: Keith Ingram, Director of Elections 

DATE: March 18, 2020

RE: Actions for May 2, 2020 Uniform Election Date

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The purpose of this advisory is to provide guidance to local political subdivisions regarding their options for any general or special elections that have been ordered for the May 2, 2020 uniform election date. Pursuant to Section 418.016 of the Texas Government Code, the Governor has issued a proclamation suspending certain provisions of the Texas Election Code and the Texas Water Code to allow all local political subdivisions that are utilizing the May 2, 2020 uniform election date to postpone their election to the November 3, 2020 uniform election date. Pursuant to Texas Election Code 31.003 and 31.004, our office has issued the following guidelines for entities that choose to exercise this authority and postpone their election to the November uniform election date.

### **Effect of Postponement of Election**

- **Candidate Filings:** By postponing their election date, the political subdivision is preserving all candidate filings and ballot order actions that have already been taken. The postponement does **not** have the effect of reopening candidate filings.
  - **Deadlines related to Candidate Filings, Declarations of Ineligibility, Withdrawals or Death:** The deadlines that apply to the November 3, 2020 election would apply to all candidates who are currently on the ballot for the May 2, 2020 election.
- **Ballot By Mail Requests:** All applications for a ballot by mail (ABBM) that were filed for the May 2, 2020 election that are marked annual would apply for the November 3, 2020 election. All single use ABBMs that were submitted for reasons of age or disability would still be valid for the November 3, 2020 election. If a single use ABBM was submitted and indicated the reason for voting by mail was due to absence from the county, this ABBM would not be valid as the applicable election date has changed. However, we would recommend that the political subdivision send a letter to these voters along with a new ABBM in case the circumstances

surrounding their absence from the county are still valid or the voter is otherwise eligible to vote by mail.

- **Ballots by Mail:** If a political subdivision has already sent out mail ballots, those mail ballots that are returned would still be valid for the November 3, 2020 postponed election date.
- **Election Records:** All records, including candidate filings, applications to vote by mail, ballot proofs, and printed ballots shall be retained and preserved.
  - **Printed Ballots:** If your ballots have already been printed up, you may be able to reuse them for November. However, if you must change your ballot to reflect any corrections or changes that occur between now and November, you would treat the original ballots as you would in a traditional ballot correction and those ballots should be destroyed in accordance with Section 52.0064 of the Texas Election Code.
- **Requirement to use County Election Precincts in November 2020:** Per Section 42.002 of the Texas Election Code, county election precincts are required for all elections occurring in November 2020. You will need to work with your county election officer to determine whether you need to make any modifications to your ballot in light of this requirement.
- **Requirement for County Election Officer to contract with Local Political Subdivisions:** All county election officers are required to contract with local political subdivisions that postponed their May 2, 2020 election and that request a contract for election services or a joint election agreement with their county election officer pursuant to the Governor's suspension of certain Texas Election Code provisions.
- **Office Hours:** The relevant dates for maintaining office hours for election purposes will be based on the November uniform election date rather than the May election date. Under Section 31.122 of the Texas Election Code, those office hours will need to be maintained for at least three hours each day, during regular office hours, on regular business days between September 14, 2020 and December 13, 2020. However, these entities should post contact information for individuals to contact their office about election-related issues during the timeframe that those offices may be closed over the coming months.
- **Holdovers in Public Office:** Under Art. XVI, Sec. 17 of the Texas Constitution, the individuals who currently hold public offices that are scheduled to be on the ballot on the May uniform election date will continue to exercise the duties of those offices until the new officers take their oaths of office, following the November uniform election date.
- **Campaign Finance Filings:** Please contact the Texas Ethics Commission for further guidance on how these modified timelines will affect any campaign finance reporting requirements. Their office can be reached at (512) 463-5800.
- **Candidates on the ballot in both May and November:** For candidates that may be running for two offices (one normally occurring in May and one normally occurring in November), these candidates will not be removed from the ballot as they are separate elections that are normally not occurring on the same date.

### **Required Action by Governing Body to Move Election Date**

In order to utilize this move, the governing body of the political subdivisions holding the elections must **order** the postponement of their election to the November 3, 2020 uniform election date. The order for this official action should contain the following items:

1. A reference to the proclamation that authorizes the entity to postpone their election date, and the fact that the political subdivision is exercising this authority.
2. Confirmation that the candidate filings for the election will remain valid for the election held on the November date and that the filing period will not be re-opened for the November election date.
3. Confirmation that all ABBMs for voters that are voting by mail due to being over the age of 65 or due to disability will still be valid for the postponed election, and that ABBMs for voters who submitted ABBMs based on expected absence from the county would not be valid for the postponed election.
4. The major relevant dates for the November election, including the voter registration deadline (October 5, 2020), the deadline to submit an ABBM (October 23, 2020), and the dates for early voting (October 19, 2020 – October 30, 2020).

### **Necessary Revisions to Order of Election**

In addition, the entity will need to meet by August 17, 2020 to make any necessary revisions to the entity's original order of election. Those revisions may include:

1. The change to the date of the election;
2. Any change in location of the main early voting location;
3. Any changes to early voting dates and hours, including weekend early voting;
4. Any changes to the identity of the early voting clerk and their contact information; or
5. Any changes to branch early voting locations.

If you are holding a bond election, you may need to make additional revisions to your order of election for that bond election. If this is the case, we recommend reaching out to your bond counsel for additional guidance.

### **Securing Election Records**

All election records should be stored and secured during the postponement period. This may require your entity to use preservation methods that are similar to the methods you would use during the preservation period after the election has occurred. This includes:

- Storing returned ballots by mail in locked, sealed ballot boxes.
- Securely storing any unused ballots.
- Securely retaining any relevant election records, including candidate applications and ABBMs.

### **Voting System Equipment**

If you are leasing voting system equipment from the county or directly from the vendor, then you may need to contact your vendor or your county regarding any necessary modifications to those lease agreements or to modify your procedures and timelines for receiving that equipment.

### **Open Meeting Requirements**

The Governor has suspended and modified certain open meeting requirements pursuant to his disaster declaration. These changes include allowing the entity to establish procedures for telephonic or videoconferenced meetings of governmental bodies that are accessible to the public.

These procedures must include a process for members of the public to participate and address the governmental body in those meetings, notice to the public on the means of participating remotely, and access to the public for recordings of those meetings.

For more information, please review the applicable [documentation](#) from the Governor's Office or contact the Office of the Attorney General.

### **Update Official Websites and Notify Media**

Any entities that are exercising this authority to postpone their election date must post notice on the entity's website and should alert any local media organizations regarding this change to their election date.

The entity must also provide notice to their county election officer regarding this change, as the county is required to post the entity's notice of election on the county's website no later than the 60th day before the date of the election under Election Code 4.008. If that election date will be changing due to the entity's decision to postpone the election then the entity must provide a revised notice to the county for posting on the county's website.

If you have any questions regarding this advisory, please contact the Elections Division at 1-800-252-2216.

KI:CA:CP

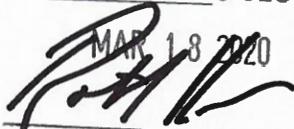


GOVERNOR GREG ABBOTT

March 18, 2020

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
10:00 AM 'CLOCK

The Honorable Ruth R. Hughs  
Secretary of State  
State Capitol Room 1E.8  
Austin, Texas 78701

MAR 18 2020  
  
Secretary of State

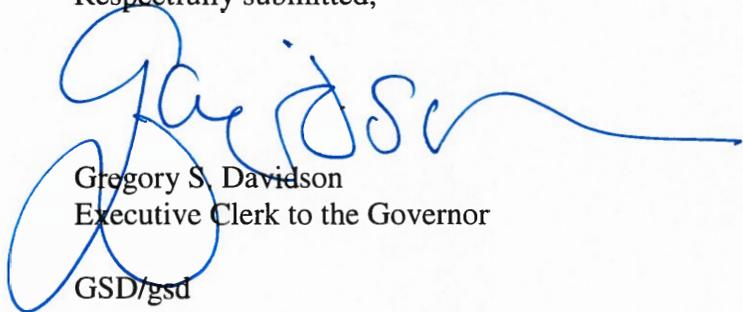
Dear Secretary Hughs:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

A proclamation suspending Sections 41.0052(a) and (b) of the Texas Election Code and Section 49.103 of the Texas Water Code to the extent necessary to allow political subdivisions that would otherwise hold elections on May 2, 2020, to move their general and special elections for 2020 only to the next uniform election date, occurring on November 3, 2020, without otherwise adjusting the term of office, and suspending Sections 31.093 and 42.0621(c) of the Texas Election Code to the extent necessary to require all county election officers, if requested by an affected political subdivision, to enter into a contract to furnish election services with any political subdivision who postponed their election to November 3, 2020, under the authority of this proclamation.

The original of this proclamation is attached to this letter of transmittal.

Respectfully submitted,

  
Gregory S. Davidson  
Executive Clerk to the Governor  
GSD/gsd

Attachment

# PROCLAMATION

BY THE

## Governor of the State of Texas

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**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

WHEREAS, Section 41.001(a)(2) of the Texas Election Code provides that a general or special election in this state shall be held on a uniform election date, and the next uniform election date is occurring on May 2, 2020; and

WHEREAS, Section 49.103 of the Texas Water Code provides that certain districts governed by this provision are required to hold director elections in May of each even-numbered year; and

WHEREAS, Section 41.0052 of the Texas Election Code prescribes a procedure for a political subdivision to change a general election date, but the time for making such a change has expired; and

WHEREAS, Section 31.093 of the Texas Election Code requires a county elections administrator to enter into a contract to furnish election services upon request of a political subdivision; and

WHEREAS, Section 42.0621(c) of the Texas Election Code does not require a political subdivision to enter into a contract with a county or hold a joint election with a county on the November uniform election date; and

WHEREAS, on March 13, 2020, the Governor of Texas certified that the novel coronavirus (COVID-19) poses an imminent threat of disaster and, under the authority vested in the Governor by Section 418.014 of the Texas Government Code, declared a state of disaster for all counties in Texas; and

WHEREAS, pursuant to Section 418.016 of the Texas Government Code, the Governor has the express authority to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster.

NOW, THEREFORE, I, GREG ABBOTT, Governor of Texas, under the authority vested in me by the Constitution and Laws of the State of Texas, do hereby suspend Sections 41.0052(a) and (b) of the Texas Election Code and Section 49.103 of the Texas Water Code to the extent necessary to allow political subdivisions that would otherwise hold elections on May 2, 2020, to move their general and special elections for 2020 only to the next uniform election date, occurring on November 3, 2020, without otherwise adjusting the term of office. I further suspend Sections 31.093 and 42.0621(c) of the Texas Election Code to the extent necessary to require all county election officers, if requested by an affected political subdivision, to enter into a contract to furnish election services with any political subdivision who postponed their election to November 3, 2020, under the authority of this proclamation.

The authority ordering the election under Section 3.004 of the Texas Election Code is the authority authorized to make the decision to postpone its election in accordance with this proclamation.

Current office holders will hold over to the extent authorized by Article XVI, Section 17 of the Texas Constitution.

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
10:00AM O'CLOCK

MAR 18 2020



IN TESTIMONY WHEREOF, I have hereto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 18th day of March, 2020.

A handwritten signature in black ink that reads "Greg Abbott".

GREG ABBOTT  
Governor of Texas

ATTESTED BY:

A handwritten signature in black ink that reads "Ruth R. Hughs".

RUTH R. HUGHS  
Secretary of State

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
10:00AM O'CLOCK

MAR 18 2020