

**CITY OF SEABROOK
RESOLUTION 2020-06**

**SUSPENSION OF CERTAIN LAWS AND RULES
DURING DECLARATION OF DISASTER FOR COVID-19**

**A RESOLUTION OF THE CITY OF SEABROOK, TEXAS REQUESTING
SUSPENSION OF CERTAIN LAWS AND RULES PURSUANT TO TEXAS
GOVERNMENT CODE SECTION 418.106 TO PROVIDE ASSISTANCE
TO ADDRESS COVID-19 EPIDEMIC**

WHEREAS, the City Council of the City of Seabrook (“City”) has a paramount interest in protecting the health, safety and welfare of its citizens, officials, employees and staff due to the recent imminent health disaster reported by our Federal and State officials created by the pandemic COVID-19 epidemic, (“COVID-19”); and

WHEREAS, COVID-19 is reported to be extremely contagious and transported by person-to-person, including recent federal guidance to limit meetings to no more than 10 people, and accordingly there is an immediate urgent need to abate certain laws and rules that foster the transmission of this disease, or that set time limits that do not address the ability of municipalities to respond/take action due to the health constraints that are required to be imposed for individual protection; and

WHEREAS, the City Council requests under the circumstance that the Governor, pursuant to Texas Government Code Section 418.106(e), waive or suspend deadlines or rules related to specifically including allowing City Council and other meetings to be held via telephone or video conference for emergency and routine items without the need to comply with onerous procedures in the Texas Open Meetings Act, and include action on the following matters (“Requested Action”), for waiver and suspension, until the cessation of this disaster, as provided by law:

Open Meetings Act: The requirements of the Texas Open Meetings Act, Government Code Chapter 551, are diametrically opposed to the principles of managing the spread of COVID-19. City officials want to maintain openness in their decision-making, but in-person gatherings of the public should be avoided. Thus, at least the following requirements should be suspended: (1) that meetings of a governmental body be physically open to the public; (2) that complicated requirements related to telephone and video conference meetings be suspended, so long as the governmental body makes reasonable efforts to inform the public of its decisions (e.g., live streams on the Internet or makes a recording available within a reasonable period of time); (3) that non-emergency items may be considered on meetings authorized under (2) to allow for the continuation of critical but non-COVID-19-related items.

Public Information Act: The Public Information Act, Government Code Chapter 552, allows requestors to submit written requests at city hall. Those requirements should be suspended so that a city can designate mail or electronic submission only, with proper notice to the attorney general’s office and the public. In addition, strict statutory deadlines should be temporarily

suspended (i.e., to begin running again after the federal, state, and/or local disasters expire).

Election laws: The May 2, 2020, election poses numerous issues. A key matter is that election workers for frequently older Americans who are at greater risk for complications for COVID-19. As a last resort, postponing the May 2, 2020, election date to a later date by suspending Election Code Section 41.001 may be needed. Other ideas to mitigate the effects of the virus include: (1) to avoid crowds at polling locations, mail-in ballots should be authorized for any voter by suspending certain requirements in Election Code Chapter 86; (2) shorten early voting period mandated by Election Code Section 85.001(e) – this recommendation would have to be carefully vetted to ensure that it doesn't do the reverse of intended and push more people to the polls at the same time; and (3) extend authorization for curbside voting under Election Code Section 64.009.

Suspension of statutory “shot clocks”: Local Government Code Chapter 212, as amended by H.B. 3167 (2019), imposes several time limitations under which a city must act on plat approval. Local Government Code Chapter 284, Subchapter D, mandates that a provider's application to place cell-related equipment in a city's right-of-way has to be acted upon within a certain period of time. Considering that many city employees are responding to COVID-19-related issues and/or working remotely, temporary suspension of those deadlines is reasonable.

Zoning and substandard structure procedures: Local Government Code Chapter 211 governs zoning procedures and Chapters 54 and 214 govern substandard building abatement, including public hearings and notices. Considering that many city employees are responding to COVID-19-related issues and/or working remotely, temporary suspension of those requirements is reasonable.

Disease control measures: Health and Safety Code Chapter 81 governs control of communicable diseases. That chapter's provisions related to area quarantines isn't workable because it makes a violation a crime. Taking infected patients who resist to jail may not be a reasonable protocol.

Employment law: At least two employment law provisions are relevant: (1) a city that doesn't have an existing policy may be prohibited by Article III, Section 53, of the Texas Constitution from paying paid emergency leave to quarantined employees – cities need to take care of their employees just as any private employer would; and (2) Local Government Code Chapter 143 has various deadlines related to police officer/firefighter discipline in certain cities that need to be extended.

Water Code violations: Texas Water Code Section 7.052(d), which provides that each day of a violation is a separate offense, should be suspended so long as a city can demonstrate that: (1) it made a reasonable effort to address the ongoing violation; and (2) such effort was inhibited by the COVID-19 situation.

Various reporting requirements, e.g. comptroller hotel tax and eminent domain reporting: these are just two examples of reporting statutes. Perhaps a blanket 30-day extension for all reporting statutes is appropriate.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEABROOK, TEXAS:

That the City Council of the City of Seabrook hereby request that the Governor, pursuant to Texas Government Code Section 418.106(e), waive or suspend deadlines or rules as set forth in the above Requested Action.

PASSED AND ADOPTED this 17th day of March, 2020.

BY: _____
Thomas G. Kolupski
Mayor

ATTEST:

Robin Lenio, TRMC
City Secretary

APPROVED AS TO FORM:

Steven L. Weathered
City Attorney

