

POHNPEI STATE GOVERNMENT

OFFICE OF THE GOVERNOR

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CONSTITUTIONAL EMERGENCY ORDER NO. 20-06

WHEREAS, on March 11, 2020, the Governor issued Constitutional Emergency Order No. 20-01 which declared a state of emergency for the State of Pohnpei in response to the imminent threat of Covid-19, and thereafter subsequent amendments necessary to further ensure the health and safety of the people of Pohnpei; and

WHEREAS, due to the state of emergency, several measures were imposed by Pohnpei State which includes health screening, quarantine, and strengthening the state's current preventive and containment measures against Covid-19 in terms of public awareness, structural facilities, monitoring and surveillance at the airport and seaport areas and travel bans; and

WHEREAS, on April 9, 2020, the Tenth Pohnpei Legislature extended Constitutional Emergency Order No. 20-01 for another 60 days counting from March 11, 2020 which expired on May 10, 2020; and

WHEREAS, on May 11, 2020, the Governor issued Constitutional Emergency Order No. 20-02 due to the critical need for additional time to elevate its level of preparedness necessary to protect the economy, health, and safety of the people of Pohnpei which expired on June 10, 2020; and

WHEREAS, on June 9, 2020, the Tenth Pohnpei Legislature adopted L.R. No. 34-20, L.D.1 extending the effects of Constitutional Emergency Order No. 20-02 to July 10, 2020; and

WHEREAS, upon its expiration, the Governor issued Constitutional Emergency Order 20-03 on July 11, 2020 which expired on August 10, 2020; and

WHEREAS, Constitutional Emergency Order 20-03 was subsequently amended by the Tenth Pohnpei Legislature on July 24, 2020 and August 7, 2020 respectively with the adoption of Legislature Resolutions No. 30-20 (relating to international and interstate travel restrictions) and 40-20 which further extended the effects of Constitutional Emergency Order 20-03 for 120 days from July 11, 2020. On October 13, 2020, with the adoption of Legislature Resolution No. 50-20, the time period was further extended to 210 days from July 11, 2020 which expired on February 6, 2021; and

WHEREAS, on February 6, 2021, the Governor issued Constitutional Emergency Order 20-04 which encapsulated all prior measures taken by the leadership of the Executive and the Legislative branches to maintain Pohnpei State's collective response to the imminent threat of Covid-19; and

WHEREAS, on March 8, 2021, Constitutional Emergency Order 20-04 was amended extending its effective date to April 9, 2021 and in consideration of recent medical development measures such as effective vaccination and reliable laboratory testing; and

WHEREAS, upon the 30-day expiration of Constitutional Emergency Order 20-04, the Governor issued Constitutional Emergency Order 20-05 which maintains the status quo and preserves all prior efforts taken since the declaration of COVID-19 as a global pandemic in March of 2020;

WHEREAS, given the undeniable vulnerability of the state of Pohnpei to the Covid-19 pandemic experienced all over the world and the limited resources available to combat and mitigate the effects of Covid-19, it is of paramount importance and legal duty to continue to take all the emergency precautionary measures and interventions necessary to protect and save the lives of our people;

NOW THEREFORE, I, Reed B. Oliver, Governor of the State of Pohnpei, pursuant to the authority vested upon me under Article 13, Section 9 of the Pohnpei Constitution and pursuant to 8 PC 1-102(e), do hereby declare a state of emergency for the State of Pohnpei in response to the continuous and imminent threat of COVID-19 and order as follows:

1) The Pohnpei COVID-19 Emergency Task Force is hereby reactivated and shall be comprised of the following:

- a) Chief of the Division of Primary Health Care of the Department of Health Services;
- b) Director of the Department of Public Safety;
- c) Director of the Department of Education;
- d) Director of the Department of Treasury and Administration;
- e) Director of the Department of Resources & Development;
- f) Attorney General of the Office of the Attorney General;
- g) Executive Officer of the Environmental Protection Agency;
- h) Commissioner of the Pohnpei Public Broadcasting Corporation; and
- i) General Manager of the Pohnpei Port Authority.

Members of the Pohnpei COVID-19 Emergency Task Force may designate a representative(s), when necessary. The Governor may call upon any other state agency for support and/or assistance to carry out the duties and responsibilities of the Pohnpei COVID-19 Emergency Task Force.

2) With respect to COVID-19, the State's response shall be in accordance with the COVID-19 Contingency Plan in effect for Pohnpei State as of the effective date of this Constitutional

Emergency Order. All departments, offices, and agencies are urged to perform all tasks required pursuant to their respective roles under the plan.

3) The Department of Treasury & Administration in cooperation with the Division of Budget shall identify sources of funds necessary to carry out this order and recommend to the Governor.

4) Funding assistance shall be immediately requested from the Office of the President of the FSM, as deemed necessary.

5) Government travel by Pohnpei State Government employees are hereby suspended until further notice for the duration of this emergency declaration.

6) Air and sea travel:

a) With respect to international travel:

(i) No passenger is allowed to disembark in the State of Pohnpei, except crew of commercial airlines, humanitarian support aircraft and vessels, including search and rescue assets, FSM licensed fishing vessels, and all cargo vessels and tankers who may disembark only in the performance of required operational duties within the immediate airport or seaport facilities; PROVIDED that they do not come in contact with anyone including airport or seaport personnel; and

(ii) PROVIDED FURTHER, that in the event of an emergency or unforeseen circumstances caused by accidents, *force majeure*, disease, illness, or other extenuating factors that may result in substantial risk, injury or loss of life to any person, the Department of Health and Social Services in coordination with relevant state agencies and the Pohnpei COVID-19 Emergency Task Force shall, on a case by case basis, undertake all required medical protocols and health measures relative to COVID-19 including risk assessment, quarantine or isolation requirements or a combination thereof deemed necessary, prior to allowing any person entry into the state of Pohnpei.

(iii) Exceptions with respect to international travel may be granted on a case-by-case basis for admittance into the State of Pohnpei of the following classes of people:

(aa) Certified health experts in all areas, technicians and workers assigned to assist the Pohnpei Government or the FSM National Government with respect to COVID-19;

(bb) Stranded returning Pohnpei residents who have not established a residency abroad or who have been stranded for one year or more since the COVID-19 pandemic in March of 2020. For purposes of this Sub-subparagraph (iii) above, stranded returning Pohnpei residents will be prioritized as follows:

- Medical referral patients and/or their attendants;
- Students; and
- Other stranded residents not included above.

(cc) Diplomats and personnel assigned to Embassies that are present on the island of Pohnpei, and their immediate family members;

(dd) Crew members of open-sea fishing vessels who are citizens of the Federated States of Micronesia;

(ee) The remains of deceased Pohnpeians and deceased residents of Pohnpei who may be accompanied by not more than five members of the immediate family of the deceased; and

(ff) Persons who are employed or who have been recruited to be employed in the State of Pohnpei, and their immediate families; and

(gg) Persons not listed in Subparagraph (iii) who meets the following requirements:

- Certificate of Qualified Entry into the State of Pohnpei;
- Copy of passport biopage;
- Copy of a negative COVID-19 PCR test (taken within 72 hours prior to arrival
- Copy of COVID-19 vaccination record (if available)

(iv) Admittance into the State of Pohnpei pursuant to the exceptions specified in Sub-paragraph (iii) immediately above in this Constitutional Emergency Order shall be premised upon prior favorable advice, assessment and recommendation by the Pohnpei COVID-19 Emergency Task Force; and subject to all screening, detection, quarantine, and isolation procedures and protocols of the State of Pohnpei.

(v) Persons seeking the use of one of the exceptions set forth in Sub-subparagraph (iii) of this subparagraph of the Constitutional Emergency Order shall first obtain, prior to the commencement of travel to the State of Pohnpei, a written "Certificate of Qualified Entry into the State of Pohnpei" which shall be issued by the Director of the Pohnpei Department of Health Services for that specific individual; PROVIDED that the Director may issue said certificate to the respective person qualified to enter the State of Pohnpei in digital form over a secure internet server; PROVIDED FURTHER that the Director shall ensure compliance with Sub-subparagraph (iv) of this subparagraph of this Constitutional Emergency Order prior to the issuance of the Certificate of Qualified Entry into the State of Pohnpei and shall ensure that there is sufficient room at the Emergency Medical Unit and/or the State's Medical Monitoring Area to accommodate the incoming travelers.

(vi) The Governor shall take the necessary steps to notify passenger carrying marine vessels and passenger carrying airlines servicing the State of Pohnpei of the requirements of this subparagraph of the Constitutional Emergency Order.

(vii) Any person who shall knowingly forge or otherwise falsify a Certificate of Qualified Entry into the State of Pohnpei as set forth in this Constitutional Emergency Order shall be guilty of a felony offense against the State of Pohnpei and upon conviction thereof shall be punished by a fine of not less than \$1,000 or imprisoned for not less than one year, or both such fine and imprisonment.

(b) With respect to interstate travel:

(i) Travel by sea or air between and within the FSM states is permitted for essential personnel and people who are returning to their state of residence or employment, as long as there are no confirmed cases of COVID-19 within the FSM state where the person originated the travel or within one or more of the FSM states where the person disembarked during his travel; PROVIDED that if there is a confirmed COVID-19 case within an FSM state where the person originated the travel or within one or more of the FSM states where the person disembarked during his travel, said person shall be subject to the international restrictions of Sub-paragraph (a) of this paragraph of this Constitutional Emergency Order. For purposes of Sub-paragraph (b), essential personnel shall include all health and safety personnel and any other personnel necessary deemed by the Governor in consultation with the Pohnpei COVID-19 Emergency Task Force.

(ii) All passengers shall ensure that they are screened for COVID-19 at the airport or seaport prior to check in or boarding and shall present documentation of such screening upon arrival in Pohnpei. All passengers are also subject to screening procedures upon arrival in Pohnpei.

(iii) The Governor of Pohnpei State shall coordinate with the Governors of the other three FSM states to ensure that no passenger exhibiting symptoms of COVID-19 will be permitted to board a plane or ship engaged in interstate transportation.

(iv) Any passenger that develops symptoms during transit will be permitted to enter the State of Pohnpei, but will be subject to quarantine/isolation requirements.

(v) For purposes of this sub-paragraph of the Constitutional Emergency Order, the term "passenger" includes every person intending to board, is on board, or is departing from an aircraft or sea vessel engaged solely in interstate travel.

c) Persons in Sub-paragraphs (a) and (b) will be subject to established standard operating procedures (SOP's), protocols, and guidelines of the Pohnpei COVID-19 Emergency Task Force and the Department of Health Services relative to Pohnpei State's preventive and containment measures against COVID-19 in effect as of the date of this Constitutional Emergency Order; PROVIDED FURTHER that any person who violates any provisions of this Constitutional Emergency Order shall be guilty of a felony offense against the State of Pohnpei and upon conviction thereof, shall be punished by a fine of not less than \$1,000 or imprisoned for not less than one year, or both such fine and imprisonment.

The Executive Branch of the Pohnpei Government is empowered to issue citations pursuant to Title 63 of the Pohnpei Code and warrants of arrest and search warrants pursuant to Chapter 2 of Title 62 of the Pohnpei Code for persons and places believed to be involved in the violation of any provision of this Constitutional Emergency Order.

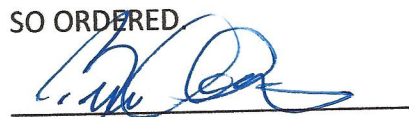
7) During the emergency, a civil right may be impaired only to the extent necessary for the preservation of the public peace, health or safety. In addition, competitive bidding procedures for any procurement in connection with this constitutional emergency order are hereby waived.

8) Unless revoked or amended sooner, this Constitutional Emergency Order is valid for a period of thirty (30) days counting from May 11, 2021.

Furthermore, the Department of Public Safety with the assistance of the relevant departments, offices, and agencies shall ensure that all provisions of this Constitutional Emergency Order are adhered to under the fullest extent of the law.

Copies of this order shall be transmitted to the President of the FSM, the Speaker of the 10th Pohnpei Legislature, the Chief Justice of the Pohnpei Supreme Court, the local chief executives of each municipality, members of MwoalenWahu, Chamber of Commerce, church leaders, and the Pohnpei Women's Advisory Council.

SO ORDERED



Reed B. Oliver
Governor
State of Pohnpei

Date: 5/10/2021