



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 17, 2021

***VIA EMAIL***

Sara Hensley  
Interim City Manager  
City of Denton, Texas  
215 E. McKinney St.  
Denton, Texas 76201  
Sara.Hensley@cityofdenton.com

Dear Ms. Hensley:

This week, City of Denton officials announced a local policy requiring individuals who work for the City of Denton to wear face masks in all common areas or suffer corrective action. This policy exceeds your city's authority as restricted by Governor Abbott's Executive Order GA-38, which states that "[n]o governmental entity, including a county, city, school district, and public health authority, and no governmental official may require any person to wear a face covering or to mandate that another person wear a face covering[.]"<sup>1</sup>

The Governor's executive orders "have the force and effect of law" and supersede local regulations.<sup>2</sup> Courts have previously agreed.<sup>3</sup> Moreover, the Texas Supreme Court has issued multiple orders staying lower court orders seeking to enjoin the Governor from asserting his authority to preempt local face-mask mandates.<sup>4</sup> In particular, the Court has held that the status quo of gubernatorial oversight over the wearing of masks at both the state and local levels "should remain in place while the court of appeals, and potentially this Court, examine the parties' merits arguments[.]"<sup>5</sup> Importantly, the Court noted that its rationale applied to "[t]his case, and others like it."<sup>6</sup>

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<sup>1</sup> See Executive Order GA-38, issued July 29, 2021, available at: [https://gov.texas.gov/uploads/files/press/EO-GA-38\\_continued\\_response\\_to\\_the\\_COVID-19\\_disaster\\_IMAGE\\_07-29-2021.pdf](https://gov.texas.gov/uploads/files/press/EO-GA-38_continued_response_to_the_COVID-19_disaster_IMAGE_07-29-2021.pdf).

<sup>2</sup> See, e.g., Tex. Gov't Code §§ 418.011-.012.

<sup>3</sup> See, e.g., *State v. El Paso Cty.*, 618 S.W.3d 812 (Tex. App.—El Paso 2020, no pet.).

<sup>4</sup> <https://www.txcourts.gov/supreme/orders-opinions/2021/august/august-15-2021.aspx>;  
<https://www.txcourts.gov/supreme/orders-opinions/2021/august/august-26-2021/>.

<sup>5</sup> [https://www.texasattorneygeneral.gov/sites/default/files/images/executive-management/21-0720\\_STAY%20ORDER%20ISSUED\\_MAND\\_FILECOPY.pdf](https://www.texasattorneygeneral.gov/sites/default/files/images/executive-management/21-0720_STAY%20ORDER%20ISSUED_MAND_FILECOPY.pdf).

<sup>6</sup> *Id.*

This office will pursue further legal action, including any available injunctive relief, costs and attorney's fees, penalties, and sanctions—including contempt of court—available at law against any local jurisdiction and its governing officials that persist in enforcing local mask mandates in violation of GA-38 and any applicable court order. You are accordingly requested to rescind your policy by 12:00 p.m. February 22nd.

Sincerely,

A handwritten signature in blue ink that reads "Austin Kinghorn". The signature is written in a cursive, flowing style.

Austin Kinghorn  
General Counsel