

**FOURTH LOCAL EMERGENCY DIRECTIVE
BY THE MAYOR OF THE CITY OF EL PASO, TEXAS**

ISSUED JUNE 12, 2020

WHEREAS, in December 2019, a novel coronavirus now designated SARS-CoV-2 which causes the disease COVID-19 was identified; and

WHEREAS, on March 11, 2020, the World Health Organization characterized COVID-19 as a pandemic; and

WHEREAS, on March 13, 2020, the Governor of the State of Texas declared a state of disaster, the President of the United States of America declared a national emergency and the Mayor of the City of El Paso declared a local State of Disaster pursuant to Texas Government Code Section 418.108; and

WHEREAS, on March 17, 2020, the City Council of El Paso adopted an Emergency Ordinance extending the City's state of disaster, instituting emergency measures due to a public health emergency, and authorizing the Emergency Management Director or designee to update, restrict, and promulgate regulations necessary to comply with Federal, State and Local authorities' guidance in relation to COVID-19; and

WHEREAS, pursuant to Texas Government Code §418.1015(a), the Mayor serves as the office of emergency management director for the City of El Paso (the "City"); and

WHEREAS, Texas Government Code, Chapter 418 authorizes the emergency management director to issue Directives, which are necessary for the protection of life and property in the City; and

WHEREAS, in response to the COVID-19 public health emergency, on March 24, 2020 the Mayor issued a Local Emergency Directive more commonly known as the "Work Safe, Stay Home" Directive; and

WHEREAS, on March 28, 2020, the Director of Cybersecurity and Infrastructure Security Agency issued a Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response which states that local governments are responsible for implementing and executing response activities and that officials should use their own judgment in issuing implementation directives and guidance; and

WHEREAS, on April 10, 2020 Governor Abbott singled out El Paso and declared that El Paso is seeing a "completely different type" of trend in comparison to other parts of the State when it comes to COVID-19, noting that, "Clearly, El Paso is still in an uptrend right now"; and

WHEREAS, on April 15, 2020 the Local Health Authority issued a stark warning that El Paso’s numbers will continue to increase if the community does not stay home, practice social distancing and wear recommended face coverings in public; and

WHEREAS, on June 8, 2020, as it has done on a monthly basis in accordance with legal requirements, the City Council of El Paso adopted an Emergency Ordinance re-enacting the March 17, 2020 Emergency Ordinance and through it, extended the disaster declaration due to a public health emergency through July 8, 2020; and

WHEREAS, the Governor has issued Executive Orders (Governor’s Orders) as well as minimum standard health protocols recommended by the Texas Department of State Health Services (“DSHS”) and found at www.dshs.texas.gov/coronavirus/opentexas.aspx, related to the expansion and reopening of services as part of a strategic plan to “Open Texas,” and will continue to issue Executive Orders and minimum standard health protocols pursuant to his plan to “Reopen Texas,” and all such Executive Orders and minimum standard health protocols, as amended, related to the COVID-19 disaster that have been or will be issued by the Governor are hereby incorporated by reference to this Directive; and

WHEREAS, Section 418.1015(b) of the Texas Government Code authorizes the emergency management director to serve as the Governor’s designated agent in the administration and supervision of duties under Chapter 418 of the Texas Government Code and exercise the powers granted to the Governor on an appropriate local scale; and

WHEREAS, El Paso is uniquely situated on the border of Chihuahua, Mexico and the State of New Mexico which are continuing to experience an increase in their number of positive cases and COVID-19 related deaths; and

WHEREAS, on May 18, 2020, Governor Abbott recognized El Paso’s unique circumstances that necessitated a one week suspension of certain services scheduled to reopen for the State; and

WHEREAS, El Paso continues to experience high rates of infection and therefore to ensure that the expanding list of services allowed to reopen does not result in substantial risk of harm to the public, all individuals in El Paso are encouraged to continue to wear face coverings and to stay at home or their place of residence except as allowed by this Directive; and

WHEREAS, Governor Abbott’s Executive Order GA-26 recognizes that a local health authority can impose restrictions not inconsistent with the Governor’s Executive Order and therefore this Directive incorporates local public health authority orders; and

WHEREAS, as of June 12, 2020 El Paso has 3,650 confirmed COVID-19 cases and 97 confirmed deaths; and

WHEREAS, because El Paso residents seek information and guidance to find the balance between personal and community health and economic recovery, El Paso Mayor Dee Margo issues this Directive consistent with the Governor's Executive Orders to help reduce and eventually eliminate COVID-19 infection in our community.

NOW THEREFORE, I, CITY MAYOR FOR THE CITY OF EL PASO, TEXAS PURSUANT TO THE AUTHORITY VESTED BY TEXAS GOVERNMENT CODE CHAPTER 418, HEREBY FIND AND DIRECT:

SECTION 1. Stay at Home or Place of Residence and Minimize In-Person Contact

Except as allowed by Governor Abbott's minimum recommended health protocols for Texas, individuals shall not be in groups larger than ten (10), including those within the individual's household, and shall maintain six feet of social distancing from those not in their group. Within these groups, individuals shall minimize in-person contact with others not in the household. This restriction applies to gatherings of any type in individuals' homes. See www.dshs.texas.gov/coronavirus/opentexas.aspx, Minimum Standard Health Protocols for All Individuals. People over the age of 65, however, are strongly encouraged to stay at home as much as possible; to maintain appropriate distance from any member of the household who has been out of the residence in the previous 14 days; and if leaving home, to implement social distancing and to practice good hygiene, environmental cleanliness, and sanitation. See <http://www.dshs.texas.gov/coronavirus/opentexas.aspx>, Special Guidance for Texans Over 65.

- a. **Social Distancing Requirements.** To the extent individuals are using shared or outdoor spaces, they shall to the greatest extent feasible, maintain Social Distancing of at least six feet from any person who is not from the same household, consistent with the Social Distancing Requirements as defined in this Section. For purposes of this Directive Social Distancing Requirements include maintaining at least six-foot Social Distancing from other individuals, washing hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer with at least 60% alcohol, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, and not shaking hands.
- b. **Face Covering Recommendations:** Because an infected person can transmit the COVID-19 virus to others before showing any symptoms, the covering of a person's nose and mouth is necessary to help slow the spread of the virus. When leaving one's residence, all persons over the age of two (2) are strongly urged to wear some form of covering over their nose and mouth, such as a homemade mask, scarf, bandana, or handkerchief, except when:
 - i. alone in a separate single space, whether indoor or outdoor,
 - ii. in the presence only of other members of one's household or residence whether inside or outside the residence
 - iii. when doing so poses a greater mental or physical health, safety, or security risk, or

- iv. when engaged in outdoor activity such as by way of example, biking, walking, or running provided the individuals comply with Social Distancing Requirements.

Parents and guardians of children over the age of two (2) and under ten (10) should appropriately mask their children when outside their residence.

All non-residents in nursing homes, state-supported living centers, assisted living facilities, and long-term care facilities shall wear a fabric face covering as provided for by this Directive.

Wearing a face covering is not a substitute for maintaining 6-foot social distancing and hand-washing, as these remain important steps to slowing the spread of the virus.

Employers (this shall include all offices and departments for the City of El Paso) must require employees to have a face covering when either in an area or performing an activity which will necessarily involve close contact or proximity to co-workers or the public, where six (6) feet of separation from other individuals is not feasible.

It is strongly recommended that you not obtain or wear medical grade masks or N-95 respirators as they are a needed resource for healthcare providers and first responders.

SECTION 2. Restricted Activities

a. People shall not visit nursing homes, state supported living centers, assisted living facilities, or long-term care facilities unless as determined through guidance from the Texas Health and Human Services Commission (HHSC). Nursing homes, state supported living centers, assisted living facilities, and long-term care facilities are to minimize the movement of staff between facilities whenever possible and limit unnecessary visitors as determined through the Governor's Report to Open Texas. See www.dshs.texas.gov/coronavirus, Recommendations for Nursing Facilities.

b. **City Facilities.** Despite budget and staffing shortfalls caused by COVID-19, the City will begin a safe and phased reopening of some City facilities. The City Manager, in compliance with the Governor's Executive Orders and corresponding Minimum Standard Health Protocols, may designate which and how parks and recreational areas and facilities, including City tennis courts, City basketball courts, public swimming pools, splash pads, the zoo, public museums and public libraries will open. See **Public Health Authority Orders** as found at <http://epstrong.org/health-orders.php> and **State of Texas Minimum Recommended Health Protocols** as found at <http://www.dshs.texas.gov/coronavirus/opentexas.aspx> for mandated guidelines and protocols. For clarity, beginning June 8, 2020, all City parks will open but playgrounds and fitness equipment within City parks will remain closed.

c. **Election Activities.** All persons, polling sites, and individuals shall follow the Local Public Health Authority Order regarding Election Activities which is found at <http://epstrong.org/health-orders.php>

d. **Parades.** Organizations planning on having parades shall be required to follow the Local Public Health Authority Order regarding parades which is found at <http://epstrong.org/health-orders.php>.

SECTION 3. Re-Opening of Businesses

Every business establishment in Texas shall operate **at no more than 50 percent** of the total listed occupancy of the establishment; provided, however, that:

1. There is **no occupancy limit** for the following:
 - a. Any services listed by the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA) in its Guidance on the Essential Critical Infrastructure Workforce, Version 3.1. or any subsequent version;
 - b. Religious services conducted in churches, congregations, and houses of worship;
 - c. Local government operations, including county and municipal governmental operations relating to licensing (including marriage licenses), permitting, recordation, and document-filing services, as determined by the local government;
 - d. Child-care services;
 - e. Youth camps, including but not limited to those defined as such under Chapter 141 of the Texas Health and Safety Code, and including all summer camps and other daytime and overnight camps for youths; and
 - f. Recreational sports programs for youths and adults.
2. Except as provided below by paragraph number 5 in this section, this 50 percent occupancy limit **does not apply** to outdoor areas, events, or establishments, except that the following outdoor areas or outdoor venues shall operate at no more than 50 percent of the normal operating limits as determined by the owner:
 - a. Professional, collegiate, or similar sporting events;
 - b. Swimming pools;
 - c. Water parks;
 - d. Museums and libraries;
 - e. Zoos, and similar facilities; and
 - f. Rodeos and equestrian events.
3. This 50 percent occupancy limit **does not apply** to the following establishments **that operate with at least 6 feet of social distancing** between work stations:
 - a. Cosmetology salons, hair salons, barber shops, nail salons/shops, and other establishments where licensed cosmetologists or barbers practice their trade;
 - b. Massage establishments and other facilities where licensed massage therapists or other persons licensed or otherwise authorized to practice under Chapter 455 of the Texas Occupations Code practice their trade; and
 - c. Other personal-care and beauty services such as tanning salons, tattoo studios, piercing studios, hair removal services and hair loss treatment and growth services.
4. **Starting at 12:01 a.m. on June 19, 2020:**
 - a. Amusement parks and carnivals shall operate at no more than 50 percent of the normal operating limits as determined by the owner.
5. For **any outdoor gathering estimated to be in excess of 500 people**, other than those set forth above in paragraphs 1, 2, or 4, the Mayor, in consultation with the local public health authority, may impose additional restrictions.
6. **Starting at 12:01 a.m. on June 12, 2020:**

- a. Dine-in services by restaurants that have less than 51 percent of their gross receipts from the sale of alcoholic beverages, are permitted to operate at up to 75 percent of the total listed occupancy of the restaurant.
7. For indoor bars and similar indoor establishments that are not restaurants as defined above and that hold a permit from the Texas Alcoholic Beverage Commission, only those customers who are seated may be serviced;
8. For purposes of this Directive, facilities with retractable roofs are considered indoor facilities, whether the roof is opened or closed; and
9. Staff members are not included in determined operating levels, except for manufacturing services and office workers.
10. Outdoor flea markets, outdoor food stalls, or other goods sold in an outdoor market, including but not limited to farmers' markets and swap meets shall follow Local Health Authority Orders regarding these businesses as found at <http://epstrong.org/health-orders.php>.
11. For purposes of this Directive, all businesses, activities, and services listed in this Section 3 shall follow Local Health Authority Orders at <http://epstrong.org/health-orders.php> and the Minimum Recommended Health Protocols as found and listed at www.dshs.texas.gov/coronavirus/opentexas.aspx for mandated guidelines and protocols.

SECTION 4. Incorporation of Local Public Health Authority Orders and Opening the State of Texas Minimum Recommended Health Protocols

Local Public Health Authority Orders as found at <http://epstrong.org/health-orders.php> and State of Texas Minimum Recommended Health Protocols as found at www.dshs.texas.gov/coronavirus/opentexas.aspx are mandated for all reopened and/or allowed businesses, activities and services as provided by the Texas Governor.

SECTION 5. Enforcement

Pursuant to Texas Government Code Section 418.173(b), it is an offense for an individual to violate a condition or restriction of any Directive issued by the El Paso Mayor during the public health crisis/disaster. Said offense shall be a Class C Misdemeanor punishable by a fine not to exceed \$500. No civil or criminal penalty shall be issued for failure to wear a face covering.

Any peace officer, including, but not limited to, officers of the El Paso County Sheriff's Office, the El Paso Police Department, and the Fire Marshal's Office, is hereby authorized to enforce the provisions of this Directive in accordance with the authority granted under Chapter 418 of the Texas Government Code. To the extent allowed by law, this Directive may be enforced by any code enforcement officers, code compliance officers, or other similar designation, in the same manner that municipal codes and ordinances are enforced.

SECTION 6. Posting of This Directive

The City of El Paso's Public Information Office will post this Directive and Local Public Health Authority Orders on its website, as well as links to the Governor's Opening the State of Texas Minimum Recommended Health Protocols. In addition, the owner, manager, or operator of any facility that is likely

to be impacted by this Directive is strongly encouraged to post a copy of this Directive onsite and to provide a copy to any member of the public asking for a copy.

SECTION 7. Prior Directives

This Directive is issued in accordance with and incorporates by reference declarations, ordinances, findings, and recitals set out in the preamble to this Directive. Unless specifically referenced in this Fourth Local Emergency Directive, all prior Local Emergency Directives and relevant amendments shall stand superseded. To the greatest extent possible, this Directive shall be interpreted as consistent with and supplemental to any Executive Order issued by the Texas Governor. All provisions of the Executive Orders of Governor Greg Abbott either existing or as, if and when issued, shall be automatically incorporated into and constitute terms of this Directive and is enforceable as if set forth herein without necessity for the issuance of any further Directives. To the extent that there is a conflict between this Directive and any Executive Order of the Governor, the strictest order shall prevail.

SECTION 8. Savings Clause. If any subsection, sentence, clause, phrase, or word of this Directive 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 Directive.

DIRECTED this the 12th day of June, 2020.

CITY OF EL PASO, TEXAS



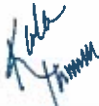
Dee Margo
Mayor of the City of El Paso

ATTEST:



Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Karla M. Nieman
City Attorney