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 and in an effort to preserve El Pasoan’s health and safety during the ongoing pandemic, I issued five Local Emergency Directives, and corresponding amendments, since March 24, 2020; and

WHEREAS, on October 8, 2020, the City of El Paso joined the rest of Texas in the State’s phased reopening through Governor Abbott’s Executive Order GA-32; and

WHEREAS, on October 8, 2020, I, and our Local Health Authority, Dr. Hector Ocaranza, urged El Pasoans to fight COVID-19 fatigue as the City began to see an increase in cases despite being past any Labor Day spikes; and

WHEREAS, since then, the City of El Paso has significantly departed from the rest of Texas in the statewide downward trajectory of new COVID-19 cases; and

WHEREAS, on October 12, 2020, Governor Abbott responded to the City’s request for assistance by surging State resources to support the City’s COVID-19 response and hospitals in the region; and
WHEREAS, on October 14, 2020, the Mayor of the City of El Paso spoke directly with Governor Abbott regarding the City's proposed measures to curb the City's exponential growth of COVID-19 cases and Governor Abbott once more extended his support to the City; and

WHEREAS, on October 15, 2020, there are 53.4 cases per 100,000 in a 7-day average of new cases, compared to 8.9 cases per 100,00 on September 13, 2020, a nearly 500% increase; and

WHEREAS, as of October 15, 2020, the City has recorded 717 new cases and a seven-day testing Positivity Rate of 12.36% compared to 142 new cases and a positivity rate of 4.85% on September 15, 2020; and

WHEREAS, as of today, 373 El Pasoans are hospitalized and 103 are in intensive care due to COVID-19; and

WHEREAS, in order to decisively address the alarming swell in COVID-19 cases, the City is forced to adopt urgent measures to protect the City from a calamitous escalation of COVID-19 within the region, which includes our sister city Juarez, Mexico.

NOW THEREFORE, BE IT PROCLAIMED BY THE MAYOR OF THE CITY OF EL PASO, TEXAS PURSUANT TO THE AUTHORITY VESTED BY THE TEXAS GOVERNMENT CODE CHAPTER 418, HEREBY FINDS AND DIRECTS:

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

a. All individuals are strongly encouraged to limit leaving their home for essential purposes only. Except as allowed by this Directive, 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 household. Individuals shall have no home gatherings with individuals not within their household. Individuals who serve as caretakers to individuals living in a different home setting, may continue to visit those individuals to provide necessary care. If members of the household have been out of the residence in the previous 14 days, members of the household should maintain appropriate social distance from those family members that have left the residence, Individuals shall minimize in-person contact with others not in the household. People over the age of 65, 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

b. Social Distancing Requirements. In order to collectively work to contain the spread of COVID-19, individuals should strictly adhere to 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.

c. Gatherings in City Parks. There shall be no gathering of groups greater than 10 individuals at City parks except for outdoor sports activities as allowed by this Directive.

d. Face Covering Requirement. 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. Therefore, it is imperative that every person in El Paso shall wear some form of face covering over their nose and mouth, such as a homemade mask, scarf, bandana, or handkerchief, when inside a commercial entity or other building or space open to the public, or when in an outdoor public space, whenever it is not feasible to maintain six feet of social distancing from another person not in the same household; provided, however, that this face covering requirement does not apply to the following:

i. any person younger than 2 years of age; parents and guardians of children over the age of 2 and under the age of 10 are responsible for appropriately making their children wear a face covering as required herein;

ii. any person with a medical condition or disability that prevents wearing a face covering;

iii. any person while the person is consuming food or drink, or is seated at a restaurant to eat or drink;

iv. any person while the person is (a) exercising or engaging in physical activity outdoors, indoors, in a gym or exercise facility, individually or in a group and (b) maintaining a safe distance from other people not in the same household;

v. any person while the person is driving alone or with passengers who are part of the same household as the driver;

vi. any person obtaining a service that requires temporary removal of the face covering for security surveillance, screening, or a need for specific access to the face, such as while visiting a bank or while obtaining a personal care service involving the face, but only to the extent necessary for the temporary removal;

vii. any person while the person is in a swimming pool, lake, or similar body of water;

viii. any person who is voting, assisting a voter, serving as a poll watcher, or actively administering an election, but wearing a face covering is strongly encouraged;

ix. any person who is actively providing or obtaining access to religious worship, but wearing a face covering is strongly encouraged;

x. any person while the person is giving a speech for a broadcast or to an audience.

Not excepted from this face-covering requirement is any person attending a protest or demonstration involving more than 10 people and who is not practicing safe social distancing of six feet from other people not in the same household.

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

Following a verbal or written warning for a first-time violator of this face-covering requirement, a person's second violation shall be punishable by a fine not to exceed $250. Each subsequent violation shall be punishable by a fine not to exceed $250 per violation.

e. Laboratory Confirmed COVID-19 Test Results.
An individual that receives a positive COVID-19 test result but that has not yet been contacted by the City’s Department of Public Health within 24 hours of receiving the laboratory results, must isolate, and those from within their household must quarantine, and report to (915) 212-6520 within 24 hours of receiving the positive test result.

Healthcare workers and first responders should follow the current Department of Public Health’s Guidelines for Healthcare Workers and First Responders, as published on epsstrong.org.

f. Health and Safety Policy-Businesses. All businesses in the City of El Paso must develop and implement a health and safety policy ("Health and Safety Policy"). The Health and Safety Policy must require, at a minimum, the following:

i. All businesses (this shall include all offices and departments for the City of El Paso) must require employees, including volunteers, 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 not in the same household is not feasible;

ii. All businesses must require that all visitors, to include contractors and vendors, wear face coverings while on the business's premises. Visitors subject to an exception listed in paragraph d of this Section are not subject to this provision;

iii. All businesses must post the Health and Safety Policy required by this Directive in a conspicuous location sufficient to provide notice to employees, volunteers and visitors; and

iv. The Health and Safety Policy required to be developed and implemented by this Directive may also include other mitigating measures designed to control and reduce the transmission of COVID-19 such as temperature checks and health screenings.

For the purposes of this Directive, covered businesses include any for-profit, non-profit, or educational entities, regardless of the nature of the service, the function they perform, or its corporate or entity structure.

Failure to develop and implement the Health and Safety Policy required by this Directive by the Effective Date may result in a fine not to exceed $500 for each violation.

SECTION 2. Activities Subject to Restrictions

a. People may not visit nursing homes, state supported living centers, assisted living facilities, or long-term care facilities. Nursing homes, state supported living centers, assisted living facilities, and long-
term care facilities should follow infection control policies and practices set forth by HHSC, including minimizing the movement of staff between facilities whenever possible.

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 consultation with the Local Health Authority’s input, 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 or close. See Public Health Authority Orders as found at http://epstrong.org/health-orders.php. For clarity, all City parks are open subject to the limitations set forth in this Directive, including playgrounds and fitness equipment within City parks.

c. Parades. Organizations planning on having parades must limit the number of participants to 10 individuals or less.

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 4.0 or any subsequent version;
   b. Religious services, including those 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;
   f. Outdoor recreational sports programs for youths and adults without spectators. Professional outdoor recreational sports may allow spectators, in accordance with this Directive, the State Minimum Standard Health Protocols, and as determined by the owner;
   g. Any public or private schools, and any public or private institutions of higher education, not already covered above; and
   h. Drive-in concerts, movies, or similar events, under guidelines that facilitate appropriate social distancing, that generally require spectators to remain in their vehicles, and that minimize in-person contact between people who are not in the same household or vehicle; and
i. The following establishments that operate with at least six feet of social distancing between work stations: cosmetology salons, hair salons, barber shops, nail salons/shops, and other establishments where licensed cosmetologists or barbers practice their trade; 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 other personal-care and beauty services such as tanning salons, tattoo studios, piercing studios, hair removal services, and hair loss treatment and growth services.

2. Except as provided below by paragraph number 3 in this section, there is no occupancy limit for outdoor areas, events, or establishments, with the exception of the following outdoor areas, events, or establishments that may operate at no more than 50 percent of the normal operating limits as determined by the owner:
   a. Amusement parks;
   b. Water parks;
   c. Swimming pools;
   d. Museums and libraries; and
   e. Zoos, and similar facilities.

3. All outdoor professional and similar sporting events, including rodeos and equestrian events, shall remain limited to 50 percent of the normal operating limits as determined by the owner. No spectators may attend the sporting events contained herein, with the exception of professional sporting events that may allow spectators, in accordance with this Directive, State Minimum Standard Health Protocols, and as determined by the owner.

4. Except for indoor professional, and similar sporting events, all indoor sporting events are postponed.

5. Any outdoor gathering in excess of 10 people is prohibited. This prohibition shall not apply to the activities or gatherings set forth in paragraphs 1, 2 or 3 of this Section in this Sixth Local Emergency Directive, as amended.

6. All restaurant dine-in services, to include outdoor service, such as on a patio or similar seating area, shall end at 9PM, but may continue after 9PM via take out and drive thru only. Restaurants may resume dine-in services, to include outdoor service, beginning at 6AM.

7. People shall not visit bars or similar establishments.

   The use by such bars or similar establishments of drive-thru, pickup, or delivery options for food and drinks remains allowed to the extent authorized by TABC.

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. Nothing in this Directive precludes requiring a customer to follow additional hygiene measures when obtaining services.

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 are mandated for all reopened and/or allowed businesses, activities and services as provided by the this Directive.

The State of Texas Minimum Recommended Health Protocols as found at https://www.dshs.state.tx.us/coronavirus/opentexas.aspx are also incorporated herein and mandated for all reopened and/or allowed businesses, activities and services. Given that the Minimum Recommended Health Protocols are written for statewide use, there may be elements, including but not limited to percentage occupancies, that do not align with this Directive. To the extent such conflict exists, individuals should follow this Directive.

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. Unless an alternate penalty is described within a specific Section of the Fifth Local Emergency Directive, as amended, said offense shall be a Class C Misdemeanor punishable by a fine not to exceed $500.

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 Sixth Local Emergency Directive, all prior Local Emergency Directives and relevant amendments shall stand superseded.

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.

SECTION 9. Effective Date.

This Sixth Local Emergency Directive shall take effect at 12:01 a.m. on October 16, 2020.

DIRECTED this the 15th day of October, 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