

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

ISSUED JULY 2, 2020

WHEREAS, on June 8, 2020, the El Paso City Council, pursuant to El Paso City Charter Section 3.10 adopted an Emergency Ordinance extending the City of El Paso's (the "City") Disaster Declaration; and

WHEREAS, on June 12, 2020, El Paso Mayor Dee Margo ("Mayor Margo") issued the Fourth Local Emergency Directive for the City of El Paso pursuant to Texas Government Code Chapter 418.1015(a) and Chapter 2.48.010 of the El Paso City Code; and

WHEREAS, on June 17, 2020, Governor Abbott clarified that his plan to reopen the Texas economy includes maintaining the authority of local governments to require businesses to adopt and enforce health policies that include face covering requirements; and

WHEREAS, on June 18, 2020, Mayor Margo issued the 1st Amendment to the Fourth Local Emergency Directive to require businesses to adopt and enforce health and safety policies that include face covering requirements; and

WHEREAS, on June 29, 2020, Mayor Margo issued the 2nd Amendment to the Fourth Local Emergency Directive to incorporate Governor Abbott's Executive Order No. 28 ("GA-28"); and

WHEREAS, on July 2, 2020, Governor Abbott issued a Proclamation amending GA-28 to authorize local authorities to regulate outdoor gatherings in excess of 10 people; and

WHEREAS, also on July 2, 2020, Governor Abbott issued Executive Order No. 29 ("GA-29") to require all individuals to wear face coverings with certain limited exceptions; and

WHEREAS, the City of El Paso has consistently sought to align its Directives with Texas Governor Abbott's Executive Orders and guidance; and

WHEREAS, the Mayor now issues this 3rd Amendment ("Third Amendment") to the Fourth Local Emergency Directive to align with Governor Abbott's July 2nd Amendment to GA-28 and GA-29.

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 FIND AND DIRECT:

1. That Section 1 (Stay at Home or Place of Residence and Minimize In-Person Contact), be amended to read as follows:

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

Except as allowed by Governor Abbott's Executive Order(s) or minimum standard health protocols recommended by DSHS, 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 their 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 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, 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 outdoors or engaging in physical activity outdoors, 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-foot social distancing and hand-washing, as these remain important 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.

- c. **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 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 b of this Section are not subject to this provision;
 - iii. All business's 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.

2. That Section 2 (Restricted Activities), paragraph d (Parades) be amended to read as follows:
 - d. **Parades.** Organizations planning on having parades must limit the number of participants to 10 individuals or less, unless prior approval from the Mayor is obtained, and shall be required to follow the Local Public Health Authority Order regarding parades which is found at <http://epstrong.org/health-orders.php>.
3. That Section 3 (Re-Opening of Business), paragraph 5 be amended to read as follows:
 5. **Any outdoor gathering in excess of 10 people is prohibited** unless prior approval from the Mayor is obtained. This prohibition shall not apply to the activities or gatherings set forth in paragraphs 1, 2, or 4 of the Fourth Local Emergency Directive. Outdoor Markets, Parades, and Outdoor Mass Gatherings, comprised of less than 10 participants shall follow the respective Local Health Authority Order. See **Public Health Authority Orders as found at <http://epstrong.org/health-orders.ph>**.
4. That Section 5 (Enforcement) be amended to read as follows:

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 Fourth 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.
5. Except as amended herein, the June 12, 2020, Fourth Local Emergency Directive, as amended, shall otherwise remain in full force and effect unless superseded by a conflicting provision herein or by state or federal law or order.
6. This Third Amendment shall take effect at 12:01 p.m. July 3, 2020.

DIRECTED this the 2nd day of July, 2020.

CITY OF EL PASO, TEXAS



Dee Margo

Mayor of the City of El Paso

ATTEST:


Laura D. Prine

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

Karla M. Nieman

Karla M. Nieman
City Attorney