

**THIRD AMENDMENT TO COUNTY JUDGE ORDER NO. 9
STAY HOME, WORK SAFE
BY THE COUNTY JUDGE OF EL PASO COUNTY, TEXAS**

ISSUED JULY 2, 2020

WHEREAS, on June 12, 2020, El Paso County Judge Ricardo A. Samaniego issued County Judge Order No. 9 (“Order”) pursuant to Texas Government Code Chapter 418.1015(a); and

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

WHEREAS, on June 18, 2020, County Judge Samaniego issued the 1st Amendment to County Judge Order No. 9 to align the Order with Governor Abbott’s guidance relating to a localities ability to enforce face covering requirements; and

WHEREAS, on June 23, 2020, Governor Abbott issued a proclamation amending Executive Order No. 26 (“GA-26”) expanding local authority to regulate outdoor gatherings; and

WHEREAS, on June 24, 2020, the positivity rate, which is the percentage of coronavirus tests administered that yield a positive result, indicated a seven-day average positivity rate of 11.76% compared to the previously quelled high of 13.86% in mid-April; and

WHEREAS, Governor Abbott noted that if positivity rates again exceeded 10%, he would consider that a “red flag” requiring further preventative action; and

WHEREAS, on June 26, 2020, Governor Abbott issued Executive Order No. 28 (“GA-28”) which supersedes GA-26; and

WHEREAS, on June 29, 2020, County Judge Samaniego issued the 2nd Amendment to County Judge Order No. 9 to incorporate 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, 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, this Third Amendment to the County Judge Order No. 9 seeks to provide additional health and safety measures for El Paso County as authorized by Governor Abbott’s July 2, 2020 Amendment to GA-28 and GA-29.

NOW THEREFORE, I, COUNTY JUDGE FOR EL PASO COUNTY, TEXAS PURSUANT TO THE AUTHORITY VESTED BY TEXAS GOVERNMENT CODE CHAPTER 418, HEREBY FIND AND ORDER:

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

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 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 Order, 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 Requirements.** 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 over the age of 2 and under the age of 10 are responsible for appropriately making their children 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 County 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 County 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 businesses must post the Health and Safety Policy required by this Order 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 Order 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 Order, 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 Order 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 County Judge 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 County Judge is obtained. This prohibition shall not apply to the activities or gatherings set forth in paragraphs 1, 2, or 4 of County Judge Order No. 9. 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 Order issued by the El Paso County Judge during the public health crisis/disaster. Unless an alternate penalty is described within a specific Section of County Judge Order No. 9, 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 Order in accordance with the authority granted under Chapter 418 of the Texas Government Code. To the extent allowed by law, this Order 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, County Judge Order No. 9 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. on July 3, 2020

ORDERED this the 2nd day of July, 2020.

COUNTY OF EL PASO, TEXAS



Ricardo A. Samaniego
El Paso County Judge