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

DELIA BRIONES
COUNTY CLERK
EL PASO COUNTY, TEXAS

DATE ORDER 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, symptoms of COVID-19 include fever, cough, and shortness of breath, and can range from very mild (including some with no reported symptoms) to severe, including illness resulting in death; 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 El Paso County Judge issued a Declaration of Local Disaster for Public Health Emergency pursuant to Texas Government Code Section 418.108; and

WHEREAS, the City of El Paso Department of Public Health Authority has issued various COVID-19 Prevention Orders in an effort to mitigate and slow down the spread of disease in El Paso County; and

WHEREAS, on March 16, 2020, President Donald Trump acknowledged the gravity of the COVID-19 pandemic, releasing strict new guidelines to limit people's interactions, including that Americans should avoid groups of more than 10 people, and;

WHEREAS, on March 19, 2020, the El Paso County Commissioners Court issued an Emergency Order extending the County's state of disaster and instituting emergency measures due to a public health emergency until terminated by order of the El Paso County Commissioners Court; and

WHEREAS, the County's Emergency Order authorizes 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 County Judge serves as the office of emergency management director for the County of El Paso (the "County"); and

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

WHEREAS, in response to the COVID-19 public health emergency, on March 13, 2020 the County Judge issued Local Emergency Orders No.1, No. 2, No. 3, and No. 4; on March 17, 2020 Order No. 5; on March 21, 2020 Order No. 6; on March 24, 2020 Order No. 7; on March 30, 2020 the First Amendment to Order No. 7; on April 29, 2020 Order No. 8; on April 30, 2020 the First Amendment to Order No. 8; on May 7, 2020 the Second Amendment to Order No. 8; on May 21, 2020 the Third Amendment to Order No. 8; and on May 28, 2020 the Fourth Amendment to Order No. 8; 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 County’s number will continue to increase if the community does not stay home, practice social distancing and wear recommended face coverings in public; 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 Order; 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, a County Judge, serving as the Governor’s designated agent in the administration and supervision of duties during a state of emergency declared by the Governor, may use state or federal resources without prior authorization from the division or the state or federal agency having responsibility for those resources in accordance with Section 418.1015(d) of the Texas Government Code; and

WHEREAS, a County Judge, serving as the Governor’s designated agent in the administration and supervision of duties during a state of emergency declared by the Governor, is authorized to control ingress to and egress from a disaster area and control the movement of persons and the occupancy of premises on an appropriate local scale in accordance with Sections 418.1015 and 418.018 of the Texas Government Code; and

WHEREAS, El Paso County 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 County’s unique circumstances that necessitated a one week suspension of certain services scheduled to reopen for the State; and

WHEREAS, El Paso County 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 County are encouraged to continue to wear face coverings and to stay at home or their place of residence except as allowed by this Order; and

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

WHEREAS, as of June, 2020 El Paso has 3,453 confirmed COVID-19 cases and 91 confirmed deaths; and

WHEREAS, because El Paso County residents seek information and guidance to find the balance between personal and community health and economic recovery, El Paso County Judge

Ricardo A. Samaniego issues this Order consistent with the Governor's Executive Orders to help reduce and eventually eliminate COVID-19 infection in our community.

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:

SECTION 1. Stay at Home or Place of Residence and Minimize In-Person Contact. 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 groups. Within these groups, individuals shall minimize in-person contact with others not in the household. This restriction applies to gatherings of any type in individual's 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 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 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 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 Order (Face Covering).

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 El Paso County) 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. The following describes outdoor areas and activities that are closed and therefore restricted until further directed by El Paso County: all County parks and recreational areas and facilities, including tennis courts, basketball courts, public swimming pools, water parks, splash pads, zoos, public museums and public libraries. For clarity, County parks will remain closed except for use of designated walking paths that exist adjacent to streets, parks, or within parks. Furthermore, the use of all private and public golf courses and private tennis courts, County handball courts, fishing and kayaking is permitted provided that Public Health Authority guidelines are adhered to. 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 www.dshs.texas.gov/coronavirus/opentexas.aspx for mandated guidelines and protocols.

c. **Election Activities.** All voting poll locations and facilities, poll staff, voters, and campaign workers (electioneers) shall follow the Local Public Health Authority Order regarding election activities as found at <http://epstrong.org/health-orders.php>.

d. **Parades.** Organizations planning on having parades shall follow the Local Public Health Authority Order regarding parades as 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, aquariums, natural caverns, 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 County Judge, 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 Order, 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 published at <http://epstrong.org/health-orders.php>.
11. Firework Vendors shall be required to follow the Local Public Health Authority Order regarding the sale of fireworks which will be published at <http://epstrong.org/health-orders.php>.
12. For purposes of this Order, 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 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 Order issued by the El Paso County Judge 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 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.

SECTION 6. This Order of the County Judge applies to all incorporated and unincorporated areas of El Paso County. This includes the Village of Vinton, City of San Elizario, City of Socorro, Town of Horizon City, Town of Clint, Town of Anthony, and City of El Paso. To the extent of conflict between the El Paso County Judge and mayor of any city within the geographic boundaries

of El Paso County, the decisions set forth in this Order prevail to fullest extent allowed by law pursuant to Texas Government Code Section 418.108(n).

SECTION 7. Posting of this Order

The County will post this Order and links to Public Health Authority Orders and 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 Order is strongly encouraged to post a copy of this Order onsite and to provide a copy to any member of the public asking for a copy.

SECTION 8. Prior Orders

This Order is issued in accordance with and incorporates by reference declarations, ordinances, findings, and recitals set out in the preamble to this Order. Unless specifically referenced in this Order No. 9, all prior County Judge Orders and relevant amendments shall remain in full force and effect. To the greatest extent possible, this Executive Order 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 Executive Order enforceable as if set forth herein without necessity for the issuance of any further orders. To the extent that there is a conflict between this Order and any executive order of the Governor, the strictest order shall prevail.

SECTION 9. Savings Clause. If any subsection, sentence, clause, phrase, or word of this Order 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 Order.

ORDERED this the 12th day of June of, 2020.

COUNTY OF EL PASO, TEXAS

Ricardo A .Samaniego,
El Paso County Judge