

LOCAL EMERGENCY DIRECTIVE

WHEREAS, in December 2019, a novel coronavirus, now designated COVID-19, was detected in Wuhan, China; 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 Mayor of the City of El Paso declared a local state of disaster in relation to COVID-19; and

WHEREAS, on March 17, 2020, the City Council of El Paso adopted an Emergency Ordinance extending the City's state of disaster and instituting emergency measures due to a public health emergency; and

WHEREAS, the City's Emergency Ordinance 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, 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 City-County; and

WHEREAS, pursuant to Texas Government Code §418.1015(a) and Chapter 2.48.010 of the El Paso City Code, the Mayor serves as the office of emergency management director for the City of El Paso (the "City"); and

WHEREAS, El Paso City Code Section 2.48.020 authorizes the emergency management director to issue necessary proclamations, regulations or directives, which are necessary for the protection of life and property in the City; 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, in order to protect the life and health of local residents, a temporary stay home work safe directive is necessary to further curb the spread of COVID-19.

NOW, THEREFORE, BE IT PROCLAIMED BY THE MAYOR OF THE CITY OF EL PASO:

SECTION 1. Stay at Home or Place of Residence. All individuals living within the City of El Paso are directed to temporarily stay at home or at their place of residence. Effective Tuesday, March 24th, 2020 at 11:59 PM MST, unless terminated or modified by a subsequent Directive, the Mayor of the City of El Paso, deems it in the public interest to issue this Directive, and directs that all individuals currently living with the City of El Paso stay at home or at their place of residence except as allowed by this Directive. 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 other person, consistent with the Social Distancing Requirements, as defined in Section 6 below. All persons may leave their residences only to perform certain Essential Activities, to perform work in an Essential Business, Government Service, or in Critical Infrastructure, or to engage in Essential Travel or Minimum Basic Operations all as defined in Section 6 below.

SECTION 2. Non-Essential Business and Operations Must Cease. All businesses or operations with a facility in the City of El Paso, except Essential Businesses as defined in Section 6 below, are required to cease all activities at facilities located within the City except Minimum Basic Operations as defined in Section 6 below, and except to allow staff to deliver (or provide curbside) products that individuals have purchased online or for which they have otherwise prepaid. For clarity, businesses may also continue operations consisting exclusively of employees or contractors performing activities at their own residences (i.e., working from home).

All **Essential Businesses** are strongly encouraged to remain open. To the greatest extent feasible, Essential Businesses shall comply with Social Distancing Requirements as defined in Section 6 below.

This Directive shall not be construed to hinder the ability of the industries identified in the U.S. Department of Homeland Security Cyber and Infrastructure Security Agency's ("CISA") Essential Critical Infrastructure Workforce Memorandum dated March 19, 2020 to continue their operation appropriately modified to account for CDC workforce and consumer protection guidance, and the list of industries identified on that memorandum is incorporated here by reference.

SECTION 3. Prohibited Activities. All public and private gatherings of more than 10 people occurring outside or inside a single household or dwelling unit are prohibited, except for the limited purposes as expressly permitted by this Directive. Nothing in this Directive prohibits the gathering of members of a household or dwelling unit. Nursing homes, retirement and long-term care facilities are to prohibit non-essential visitors from accessing their facilities unless to provide critical assistance or for end-of-life visitation.

SECTION 4. Travel. All travel, including, but not limited to, travel on foot, bicycle, scooter, motorcycle, automobile, or public transit, except for purposes of Essential Travel,

performing Essential Activities or going to work in an Essential Business, Government Service, or Critical Infrastructure, as defined in Section 6 below, is prohibited. To the greatest extent feasible, people riding on public transit shall comply with Social Distancing Requirements as defined in Section 6 below. Notwithstanding anything to the contrary, if someone in a household has tested positive for COVID-19, the household is ordered to isolate at home. Members of the household cannot go to work, school or any other community function until cleared by a medical professional but may seek medical services as needed from medical personnel and facilities.

SECTION 5. Prior Directives. This Directive is issued in accordance with and incorporates by reference declarations, ordinances, findings, and recitations set out in the preamble to this Directive and prior Directives issued by Mayor Dee Margo except that where any such previous Directives or Declarations are in conflict with this Directive, this Directive prevails.

SECTION 6. Definitions and Exemptions.

- a. **Individuals experiencing homelessness.** A person that is homeless is exempt from this Directive; however, such a person is strongly urged to obtain shelter.
- b. **Essential Activities.** For purposes of this Directive, individuals may leave their residence only to perform any of the following “Essential Activities.” However, people at high risk of severe illness from COVID-19 and people who are sick are urged to stay in their residence to the extent possible except as necessary to seek medical care.
 - i. **For Health and Safety.** To engage in activities or perform tasks essential to their health and safety, or to the health and safety of others (including, but not limited to, pets), such as, by way of example only and without limitation, seeking emergency services, obtaining medical supplies or medication, or visiting a health care professional;
 - ii. **For Necessary Supplies and Services.** To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example only and without limitation, groceries and food, including pet supplies and food, drinks, supplies they need to work from home, household consumer products, and products necessary to maintain the safety, sanitation, and essential operation of residences;
 - iii. **For Outdoor Activity.** To engage in outdoor activity, such as, by way of example and without limitation, biking, walking, hiking, or running provided the individuals comply with Social Distancing Requirements as defined in this Section. Individuals may go to public parks and open outdoor recreation areas, but are discouraged from using playground or outdoor exercise equipment;
 - iv. **For Certain Types of Work.** To perform work providing essential products and services at an Essential Business, Government Service, or Critical Infrastructure, or to otherwise carry out activities specifically permitted in this Directive, including Minimum Basic Operations; or

- v. **To Take Care of Others.** To care for a friend, child, the elderly, sick or dying, family member or pet in another household.
 - vi. **To Seek Safe Residence.** Individuals whose residences are unsafe or become unsafe, such as victims of domestic violence, are permitted and urged to leave their homes and stay at a safe alternative home or residence.
- c. **Healthcare Operations.** For purposes of this Directive, individuals may leave their residence to work for or obtain services at any “Healthcare Operations” including hospitals, clinics, dentists, physical and occupational therapy offices, pharmacies, research, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers, and related retail sales or any related and/or ancillary healthcare services. “Healthcare Operations” also includes veterinary care and all healthcare services provided to animals. This exemption shall be construed broadly to avoid any impacts to the delivery of healthcare, broadly defined. “Healthcare Operations” does not include fitness and exercise gyms or other similar facilities. In accordance with the Governor Abbott’s orders issued on Sunday, March 22, 2020 healthcare operations do not include elective medical, surgical, and dental procedures.
- d. **Critical Infrastructure.** For purposes of this Directive, individuals may leave their residence to provide any services or perform any work necessary to the operations and maintenance of “Critical Infrastructure,” including, but not limited to, personnel listed on the Department of Homeland Security’s Cybersecurity and Infrastructure Agency (CISA) advisory initial list of “Essential Critical Infrastructure Workers,” public works construction, residential and commercial construction, and other construction that supports essential uses, airport operations, water, sewer, gas, electrical, oil refining, roads and highways, public transportation, solid waste collection and removal, internet, cable, wireless and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services), provided that they carry out those services or that work in compliance with Social Distancing Requirements as defined in this Section, to the extent possible.
- e. **Essential Government Functions.** For purposes of this Directive, all civilian Police employees, sworn Police officers, Fire Department, and Emergency Medical Services personnel (“First Responders”), ambulance drivers, emergency management personnel, persons authorized by the Emergency Management Director to assist in the providing for the health, safety, or welfare of the public; emergency dispatch operators, communicators and floor managers; City or County public health workers; prison or jail personnel; City or County animal control employees; public transportation workers; court personnel, child protection and child welfare personnel, military personnel, personnel working for companies, and their subcontractors, who perform under contract to the Department of Defense providing materials and services to the

Department of Defense, personnel working for companies, and their subcontractors, who perform work under contract to City, County, State and Federal Governmental Entities for which they are required under state or federal law to remain open; law enforcement personnel, housing and shelter personnel, and others working for or to support Essential Businesses or Critical Infrastructure are categorically exempt from this Directive. This Directive does not apply to the City, County, Federal or State Government.

For purposes of this Directive, “Essential Government Functions” means all services needed to ensure the continuing operation of the government agencies and provide for the health, safety and welfare of the public and all agencies that provide for the health, safety and welfare of the public. Each government body shall determine its Essential Government Functions and identify employees and/or contractors necessary to the performance of those functions. To the extent feasible, all Essential Governmental Functions shall be performed in compliance with Social Distancing Requirements as defined in this Section.

- f. **Businesses Covered by this Directive.** 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.
- g. **Essential Businesses.** For the purposes of this Directive, “Essential Businesses” means:
 - i. **Healthcare Operations.** Healthcare Operations and Critical Infrastructure, including but not limited to caregivers, assisted living and hospice workers, mental health workers, physical and occupational therapists, hospital and laboratory personnel, and pharmacy employees;
 - ii. **Stores that sell Groceries and Certain Other Essential Supplies.** Food service providers, including grocery stores, supermarkets, food and beverage wholesalers, food and beverage warehouses and distribution centers, big-box stores, liquor stores, bodegas, food banks, convenience stores, and other establishments engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, pet supplies, fresh meats, fish, and poultry, and any other household consumer products (such as cleaning and personal care products). This includes stores that sell groceries and also sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences. This exemption does not apply to outdoor food stalls or other goods sold in an outdoor market, including but not limited to farmers’ markets and swap meets.
 - iii. **Food Cultivation.** Food cultivation, including farming, livestock, and fishing;
 - iv. **Providers of Basic Necessities to Economically Disadvantaged Populations.** Businesses that provide food, shelter, and social services, and

other necessities of life for the elderly, economically disadvantaged or otherwise needy individuals;

- v. **Media.** Newspapers, television, radio, and other media services. This includes the ancillary work necessary for the delivery of media. Members of the media will be required to follow the Social Distancing Requirements as defined in Section 6;
- vi. **Gas Stations and Businesses Needed for Transportation.** Gas stations, fuel suppliers, tire stores, establishments engaged in renting or leasing passenger cars and trucks, bicycle or motor repair shops, automobile dealerships for the sale of either new or used cars, auto-manufacturing and assembly, auto-supply, auto-repair, and other related facilities;
- vii. **Financial Institutions.** Banks and related financial institutions, consumer lenders, sales and finance lenders, credit unions, appraisers, and title companies;
- viii. **Hardware and Supply Stores.** Hardware stores and businesses that sell electrical, plumbing, and other material necessary to support Essential Businesses, Critical Infrastructure, and Essential Government Functions;
- ix. **Critical Trades.** Plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, essential activities, Essential Businesses, Essential Government Services, and Critical Infrastructure, including but not limited to utilities such as electricity, gas, water and wastewater, and other public works;
- x. **Mail and Delivery Services.** Businesses providing mailing and shipping services, including post office boxes;
- xi. **Educational Institutions.** Educational institutions—including public and private K-12 schools, colleges, and universities—for purposes of facilitating distance learning or performing essential functions, provided that social distancing of six-feet per person is maintained to the greatest extent possible;
- xii. **Laundry Services.** Laundromats, dry cleaners, and laundry service providers;
- xiii. **Restaurants for Consumption Off-Premises.** Restaurants and other facilities that prepare and serve food, but only for delivery or take out. Schools and other entities that typically provide free food services to students or members of the public may continue to do so under this Directive on the condition that the food is provided to students or members of the public on a pick-up and takeaway basis only. Schools and other entities that provide food services under this

exemption shall not permit the food to be eaten at the site where it is provided, or at any other gathering site;

- xiv. **Supplies to Work from Home.** Businesses that supply products needed for people to work from home;
- xv. **Supplies for Essential Businesses, Critical Infrastructure and Essential Government Functions.** Businesses that supply other Essential Businesses, Critical Infrastructure, and Essential Government Functions with the support or supplies necessary to operate; including but not limited to computers, audio and video electronics, hardware, paint, electrical and plumbing material, sanitary equipment, medical equipment and supplies, and food and beverages. This includes businesses and manufacturers that retool so that a substantial part of their business is for the purpose of manufacturing and producing ventilators;
- xvi. **Food Delivery Services.** Businesses that ship or deliver groceries, food, goods or services directly to residences or stores that sell groceries or other essential supplies;
- xvii. **Transportation.** Airlines, taxis, trains, and other private transportation providers (such as Uber and Lyft) that provide transportation services necessary for the performance of Essential Activities, Essential Businesses, Critical Infrastructure, Essential Government Functions, and Essential Travel. This includes transportation maintenance services such as mechanics necessary to keep transportation services operational;
- xviii. **Home-Based Care and Services.** Home-based care for the sick or dying, seniors, adults, or children, including caregivers who may travel to provide support and/or care;
- xix. **Residential Facilities and Shelters.** Residential facilities and shelters for seniors, adults, children, including but not limited to homeless shelters, centers against family violence, and transitional housing;
- xx. **Professional Services.** Professional services, such as legal or accounting services, insurance services, and real estate services when necessary to assist in compliance with legally mandated activities;
- xxi. **Information Technology Services.** IT and IT services and their essential services vendors, including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, web-based services, and critical manufacturing. This includes stores primarily engaged in repairing computers, electronics and cell phones; and
- xxii. **Childcare Facilities.** Childcare facilities providing services that enable employees exempted in this Directive to work as permitted. To the extent

possible, childcare facilities must operate under the following mandatory conditions:

1. Childcare must be carried out in stable groups of 10 or fewer (“stable” means that the same 10 or fewer children are in the same group each day).
2. Children shall not change from one group to another, unless there is a closure of a childcare facility that requires a child to be placed in a new childcare facility. Children coming from facilities that may have closed shall be grouped together in one group, when possible.
3. If more than one group of children is cared for at one facility, each group shall be in a separate room. Groups shall not mix with each other.
4. Childcare providers shall remain solely with one group of children.

xxiii. **Animal Shelters, Zoos, and other Businesses that Maintain Live Animals.** Businesses that maintain and care for live animals are not permitted to allow any visitors or patrons, but may continue to operate to the extent necessary to provide for the animals. Nothing in this section shall prohibit a non-employee **from** entering the premises to perform an Essential Health Care Services or another Essential Business Service.

xxiv. **Clothing and Personal Protective Equipment Manufacturers, Suppliers and Retailers.** Stores that only or primarily manufacture, supply, or sell uniforms, apparel and personal protective equipment for medical/healthcare professionals and public safety workers (police officers and firefighters).

xxv. **Vector and Pest Control.** Establishments primarily engaged in exterminating and controlling birds, mosquitoes, rodents, termites, wasps, and other insects and pests.

xxvi. **Funeral and Post-Mortem Services.** Workers performing mortuary services, including funeral homes, crematoriums, and cemetery workers. Workers who coordinate with other organizations to ensure the proper recovery, handling, identification, transportation, tracking, storage, and disposal of human remains and personal effects; certify cause of death; and facilitate access to behavioral health services to family members, responders, and survivors of an incident.

h. **Minimum Basic Operations.** For the purposes of this Directive, “Minimum Basic Operations” include the following, provided that employees comply with Social Distancing Requirements as defined in this Section, to the extent possible, while carrying out such operations:

- i. The minimum necessary activities to maintain the value of the business’s inventory, preserve the condition of business’s physical plant and equipment, ensure security, process payroll and employee benefits, or for related functions;
or

- ii. The minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences.
- i. **Essential Travel.** For the purposes of this Directive, “Essential Travel” includes travel for any of the following purposes. Individuals engaged in any Essential Travel must comply with all Social Distancing Requirements as defined in this Section.
- i. Any travel related to the provision of or access to Essential Activities, Essential Governmental Functions, Essential Businesses, Critical Infrastructure, or Minimum Basic Operations;
 - ii. Travel to care for or transport the elderly, minors, dependents, persons with disabilities, or other vulnerable persons, pets or livestock;
 - iii. Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services;
 - iv. Travel to return to a place of residence from outside the jurisdiction;
 - v. Travel required by law enforcement or court order, including an administrative court order;
 - vi. Travel by church staff/clergy for the purpose of production of remote delivery of religious services and other ministries requiring travel;
 - vii. Travel required for non-residents to return to their place of residence outside the City. Individuals are strongly encouraged to verify that their transportation out of the City remains available and functional prior to commencing such travel.
 - viii. Travel engaged in interstate commerce and otherwise subject to the provisions of the Commerce Clause of the United States Constitution.
- j. **Residences.** For purposes of this Directive, residences include hotels, motels, shared rental units, and similar facilities.
- k. **Social Distancing Requirements.** 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.

SECTION 7. Enforcement. Peace officers, City of El Paso Code Department inspectors, and the Office the Fire Marshal, are hereby authorized to enforce this Directive. This Directive is issued during a state of disaster and during the activation of the Office of Emergency Management Basic Plan. Pursuant to Texas Government Code §418.173, a person who violates any provision

of this rule, upon conviction, is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 dollars or confinement in jail for a term that does not exceed 180 days.

SECTION 8. Posting of this Directive. The City of El Paso's Public Information Office will post this Directive on its website. 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 9. 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 24 day of March, 2020.

CITY OF EL PASO, TEXAS



Dee Margo
Mayor of the City of El Paso

ATTEST:



Laura D. Prire
City Clerk

APPROVED AS TO FORM:



Karla M. Nieman
City Attorney