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**SECOND AMENDMENT TO ORDER NO. 11
WORK HOME, STAY SAFE
BY THE COUNTY JUDGE OF EL PASO COUNTY, TEXAS**

DELIA BRIONES
COUNTY CLERK
EL PASO COUNTY, TEXAS

DATE ORDER ISSUED: October 16, 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 County and 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 and in an effort to preserve El Pasoan's health and safety during the ongoing pandemic, I issued 11 Local Emergency Orders, and corresponding amendments, since March 13, 2020 and

WHEREAS, both the State of Texas and County of El Paso remain under a state of disaster; 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, while the pandemic persists without a known cure or vaccine, El Pasoans' adherence to federal, state and local health protocols has contributed to a State and local decrease in new COVID-19 cases and hospitalizations; and

WHEREAS, on October 12, 2020, Governor Abbott sent State resources to support the County of El Paso's COVID-19 response and hospitals in the region; 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 100,000 on September 13, 2020, a nearly 500% increase;

WHEREAS, as of October 15, 2020, the County 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 County is forced to adopt urgent measures to protect the County from a calamitous escalation of COVID-19 within the region, which includes our sister city, Juarez, Mexico.

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 of Order No. 11 Issued by the County Judge on September 21, 2020 shall be amended as follows:

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.

1. Except as allowed by this Order, 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.
2. 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.
3. 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.
4. Individuals shall minimize in-person contact with others not in the household.
5. 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 follow social distancing rules and to practice good hygiene, environmental cleanliness, and sanitation.

b. Social Distancing Requirements

1. In order to collectively work to contain the spread of COVID-19, individuals should strictly adhere to social distancing requirements.
2. 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.
3. 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.

- c. **Gatherings in County Parks.** There shall be no gathering of groups greater than 10 individuals at County parks except for outdoor sports activities as allowed by this Order.
- d. **Face Covering Requirement.** Because an infected person can transmit the COVID-19 virus to others before showing any symptoms, the covering of BOTH a person's nose and mouth is necessary to help slow the spread of the virus. Therefore, **every person throughout El Paso County shall wear some form of face covering over BOTH 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, 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 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.

Penalties for Failure to Follow Face Covering Requirements: 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 epstrong.org.

- f. 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 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 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.

Section 2 of Order No. 11 Issued by the County Judge on September 21, 2020 shall be amended as follows:

SECTION 2. Activities Subject to Restrictions

- a. Individuals that are not employees, vendors, or medical personnel shall 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. **County Facilities.** The County is authorized to consider a safe and phased reopening of some County facilities, parks, and recreational areas, in accordance with Commissioners Court guidelines, the Governor’s Executive Order and corresponding Minimum Standard Health Protocols.

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

Section 3 of Order No. 11, issued by the County Judge on September 21, 2020 and as amended by Amendment No. 1 on October 10, 2020 shall be amended as follows:

SECTION 3. Re-Opening of Businesses.

El Paso County business establishments 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 Order, 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 suspended.
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 2nd Amendment.
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 that hold a permit from the Texas Alcoholic Beverage Commission (TABC) and are not restaurants as defined above in paragraph number 7; provided, however, that the use by such bars or similar establishments of drive-thru, pickup, or delivery options for food and drinks is allowed to the extent authorized by TABC. The provisions regarding bars or similar establishments as outlined in Section 3.1.7 of the First Amendment to County Judge Order No. 11 shall remain in full force an effect.
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. Nothing in this Order precludes requiring a customer to follow additional hygiene measures when obtaining services.

Section 4 of Order No. 11, issued by the County Judge on September 21, 2020 shall be amended as follows:

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 Order.

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 Order. To the extent such conflict exists, individuals are required to follow this Order.

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. 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 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 5. Prior Orders

This Order is issued in accordance with and incorporates by reference declarations, orders, findings, and recitals set out in the preamble to this Order. Unless specifically referenced in this 2nd Amended Order, the September 21, 2020, Order No. 11 and the First Amendment issued on October 10, 2020 shall otherwise remain in full force and effect unless superseded by a conflicting provision herein or by state or federal law or order.

SECTION 6. Effective Date.

This Second Amendment shall take effect at 12:01 a.m. on October 16, 2020.

ORDERED this the 16th day of October of, 2020.

COUNTY OF EL PASO, TEXAS



Ricardo A .Samaniego, El Paso County
Judge

