

**ORDER NO. 7 BY THE COUNTY JUDGE OF EL PASO COUNTY, TEXAS**

**DATE ORDER ISSUED: MARCH 24, 2020**

**WHEREAS**, pursuant to Texas Government Code Section 418.108, the El Paso County Judge issued a Declaration of Local Disaster for Public Health Emergency on March 13, 2020, due to a novel coronavirus now designated SARS-CoV-2 which causes the disease COVID-19; and

**WHEREAS**, the on-going evaluation of circumstances related to the virus and the updated recommendations of the Centers for Disease Control and the Texas Department of State Health Services warrant the March 13, 2020 Order of the County Judge; and

**WHEREAS**, on March 16, 2020, the President of the United States of America 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 Of the County Of El Paso, Texas Extending A Disaster Declaration Due To A Public Health Emergency that affirmed the activation of the El Paso County Emergency Management Plan and extends the Declaration of Local Disaster until such time that it is rescinded by order of the Commissioners Court.

**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.** All individuals living within the County of El Paso are ordered to temporarily stay at home or at their place of residence. Effective Tuesday, March 24, 2020 at 11:59 PM MDT, unless terminated or modified by a subsequent Order, the County Judge of El Paso County, Texas, deems it in the public interest to issue this Order, and orders that all individuals currently living in El Paso County, Texas to stay at home or at their place of residence except as allowed by this Order. For the purposes of this Order, residences include hotels, motels, shared rentals, and similar facilities. 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 5.i. below. All persons may leave their residences only to perform certain Essential Activities, to perform work or operate in an Essential Business, Essential Governmental Functions, or in Critical Infrastructure, engage in Essential Travel or Minimum Basic Operations all defined below. This Order takes effect on Tuesday, March 24, 2020 at 11:59 PM MST and will continue unless terminated or modified by subsequent Order, subject to the limited exceptions and under the terms and conditions more particularly set forth below.

**SECTION 2. Non-Essential Business and Operations Must Cease.** All businesses or operations with a facility in the County of El Paso, except Essential Businesses as defined in Section 5.f.

below, are required to cease all activities at facilities located within the County except Minimum Basic Operations as defined in Section 5.g. 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).

**SECTION 3. Prohibited Activities.** All public or private gatherings of any number of people occurring outside a single household or living unit are prohibited, except as otherwise provided herein. Nothing in this Order prohibits the gathering of members of a household or living 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 5.c. below, is prohibited. To the greatest extent feasible, people riding on public transit shall comply with the Social Distancing Requirements as defined in Section 5.i. 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. Definitions and Exemptions.**

- a. **Individuals experiencing homelessness.** A person that is homeless is exempt from this Order, however, such a person is strongly urged to obtain shelter.
- b. **Essential Activities.** For purposes of this Order, individuals may leave their residence only to perform any of the following “Essential Activities”. 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 their family or household members (for example, obtaining medical supplies or medication, visiting a health care professional, or obtaining supplies need to work from home).
  - ii. **To obtain 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 (for example, food, pet supply, and any other 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, provided the individuals comply with Social Distancing Requirements of six feet (for example, walking, biking, hiking, or running). 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 or to otherwise carry out activities specifically permitted in this Order.
  - v. **To Take Care of Others.** To care for a family member or pet in another household or to care for a friend, child, the elderly, sick or dying.
  - 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. **Essential Critical Infrastructure.** Work necessary to the operations and maintenance of the 16 critical infrastructure sectors as identified by the National Cybersecurity and Infrastructure Agency (CISA) including public works construction, residential and commercial construction, airport operations, water, sewer, gas, electrical, oil refining, roads and highways, public transportation, solid waste collection and removal, internet, and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services), financial institutions, defense and national security-related operations, essential manufacturing operations provided that they carry out those services or that work in compliance with social distancing requirements of six feet, to the extent possible. Essential Businesses providing essential critical infrastructure should implement screening precautions to protect employees and all activity shall be performed in compliance with social distancing guidelines.
- d. **Essential Government Functions.** All services provided by local governments needed to ensure the continuing operation of the government agencies to provide for the health, safety and welfare of the public. Further, nothing in this Order shall prohibit any individual from performing or accessing “Essential Government Functions.” Each government body shall determine its Essential Government Functions and identify employees and/or contractors necessary to the performance of those functions. All Essential Government Functions shall be performed in compliance with social distancing requirements of six feet, to the extent possible.
- e. **Businesses Covered by this Order.** 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.
- f. **Essential Business.** For purposes of this Order, Essential Business shall be defined as the following:
- i. **Healthcare Operations.** Healthcare operations, including hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, mental health providers, substance abuse service providers, blood banks, medical research, laboratory services, or any related and/or ancillary healthcare services. Home-based and residential-based care for seniors, adults, or children are also considered healthcare operations. Healthcare operations also includes veterinary care and all health and welfare services provided to animals. This exemption shall be

viewed broadly to avoid any impacts to the delivery of healthcare. This includes all ancillary workers necessary for the delivery of healthcare services. Healthcare operations do not include fitness and exercise gyms and 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.

- ii. **Essential Retail.** Food service providers, including grocery stores, warehouse stores, big-box stores, bodegas, liquor stores, gas stations and convenience stores. Food cultivation, including farming, fishing, and livestock. Businesses that ship or deliver groceries, food, goods or services directly to residences. Restaurants and other facilities that prepare and serve food, but only for delivery or carry out. Schools and other entities that typically provide free services to students or members of the public on a pick-up and take-away basis only. The restriction of delivery or carry out does not apply to cafes and restaurants located within hospital and medical facilities. Laundromats, dry cleaners, and laundry service providers. Automobile dealerships, auto manufacturing and assembly, auto-supply, auto and bicycle repair, hardware stores, and related facilities. Businesses that supply products needed for people to work from home. 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. **Providers of Basic Necessities to Economically Disadvantaged Populations.** Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals.
- iv. **Essential Services Necessary to Maintain Essential Operations of Residences or Other Essential Businesses.** Trash and recycling collection, processing and disposal, building cleaning, maintenance and security, warehouse/distribution and fulfillment, and storage for essential businesses. Plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operations of residences and Essential Businesses. Professional services, such as legal or accounting services, when necessary to assist in compliance with legally mandated activities. Businesses that supply other essential businesses with support or supplies needed to operate. Petroleum refineries.
- v. **Media.** Newspapers, television, radio, and other media services. Members of the media will be required to follow the Social Distancing Requirements as listed in this Section I below.
- vi. **Financial Institutions.** Banks and related financial institutions, consumer lenders, sales and finance lenders, credit unions, appraisers, and title companies.
- vii. **Mail and Delivery Services.** Businesses providing mailing and shipping services, including post office boxes.
- viii. **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.

- ix. **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.
- x. **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.
- xi. **Transportation.** 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.
- xii. **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.
- xiii. **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.
- xiv. **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.
- xv. **Childcare Facilities.** Childcare facilities providing services that enable employees exempted in this Order 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.
- xvi. **Animal Shelters and other Business that Maintain Live Animals.** Business 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.
- xvii. **Vector and Pest Control.** Establishments primarily engaged in exterminating and controlling birds, mosquitos, rodents, termites, wasps, and other insects and pests.
- xviii. **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.
- g. **Minimum Basic Operations.** For the purposes of this Order, “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.
- h. **Essential Travel.** For the purposes of this Order, “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 County. Individuals are strongly encouraged to verify that their transportation out of the County 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.

- i. **Social Distancing Requirements.** For purposes of this Order Social Distancing Requirements include maintain 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 6. Enforcement.** This Order is issued during a state of disaster and during the activation of the Office of Emergency Management Basic Plan. The El Paso County Sheriff's Office and other peace officers are hereby authorized to enforce this Order. Pursuant to Texas Government Code § 418.173, a violation of this Order is a misdemeanor punishable by a fine not to exceed \$1,000 or confinement in jail for a term not to exceed 180 days.

**SECTION 7. Essential Services Exempted.** Notwithstanding the above restriction, this Declaration is not intended to apply to any business operations delivering essential services. Essential Services means services, by whomsoever rendered, and whether rendered to the government or to any other person, the interruption of which would endanger life, health or personal safety of the whole or part of the population.

**SECTION 8. Term.** This Order shall be effective on Tuesday, March 24, 2020 at 11:59 PM MST, and continuing until otherwise terminated, rescinded, superseded, or amended by the County Judge or Commissioners Court pursuant to applicable law.

**SECTION 9. Order Posting.** The County of El Paso must promptly provide copies of this Order by posting on the El Paso County website. 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 10. 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.

**SECTION 11.** This order supersedes all previous orders on this matter that are in conflict or inconsistent with its terms, and this order shall remain in effect until the state of local disaster is terminated, subject to being extended, modified, amended, rescinded, or superseded by me.

**ORDERED** this the 24th day of March, 2020, in the County of El Paso, Texas.

**(SIGNATURE PAGE FOLLOWS)**

**THE COUNTY OF EL PASO, TEXAS**

*Ricardo A. Samaniego*

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Ricardo A. Samaniego, County Judge