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**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: September 21, 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; on May 28, 2020 the Fourth Amendment to Order No. 8; on June 12 Order No. 9; on June 18 the First Amendment to Order No. 9; on June 29, the Second Amendment to Order No. 9; on June 29 Order No. 10; and on July 2 the Third Amendment to Order ;No. 9 and

WHEREAS, both the State of Texas and County of El Paso remain under a state of disaster; and

WHEREAS, on September 17, 2020, Governor Abbott further reopened Texas due to advances in medical treatments for COVID-19 patients, increases in testing, abundant supplies of personal protective equipment, and Texans' compliance with safe practices like social distancing, hand sanitizing and use of face coverings;

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, as of September 17, 2020, 8.7% of El Paso's hospital region patients had COVID-19, compared to 34.2% at its peak; and

WHEREAS, as of September 18, 2020, the County of El Paso had 2,820 active COVID-19 cases, and a 4.90% rolling 7-day average positivity rate; and

WHEREAS, in order to align with and incorporate Governor Abbott's Executive Orders No. 30 and 31 (GA-30 and GA-31, respectively) into the County's existing COVID-19 measures, I now issue this Order No. 11.

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. 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.us/coronavirus/opentexas.aspx, Minimum Standard Health Protocols for All Individuals. Additionally, 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 implement social distancing and to practice good hygiene, environmental cleanliness, and sanitation. See www.dshs.texas.us/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 Requirement:** 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 (Note, 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, 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 not in the same household is not feasible, and to the extent allowed by law;
 - 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 Directive 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 Directive 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 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.

Failure to develop and implement the Health and Safety Policy required by this Directive by the Effective Date may result in a fine not to exceed \$500 for each violation.

SECTION 2. Activities Subject to Restriction

- a. People may 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 should follow infection control policies and practices set forth by HHSC, including minimizing the movement of staff between facilities whenever possible. See HHSC Expands Visitation at Long-Term Care Facilities, Allows Designated Essential Family Caregivers to Provide Support, <https://hhs.texas.gov/about-hhs/communications-events/news/2020/09/hhsc-expands-visitation-long-term-care-facilities>.

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 Commissioner Court guidelines, the Governor's Executive Orders and corresponding Minimum Standard Health Protocols.

c. **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 in the unincorporated areas of the County or, if within a municipality, the mayor of the municipality's approval is obtained.

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 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. Recreational sports programs for youths and adults;
 - 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.

2. The following types of business establishments may operate at up to 75 percent of the total listed occupancy of the establishment, except for those establishments in areas with high hospitalizations as defined below:
 - a. In-store, non-CISA retail establishments;
 - b. Dine-in restaurants, as defined below in paragraph No. 7;
 - c. Non-CISA office buildings;
 - d. Museums and libraries; and
 - e. Gyms and exercise facilities and classes.

“Areas with high hospitalizations” means any Trauma Service Area that has had seven consecutive days in which the number of COVID-19 hospitalized patients as a percentage of all hospitalized patients exceeds 15 percent, until such time as the Trauma Service Area has seven consecutive days in which the number of COVID-19 hospitalized patients as a percentage of all hospitalized patients is 15 percent or less. A current list of areas with high hospitalizations will be maintained at <https://www.dshs.texas.gov/ga3031/>.

3. Except as provided below by paragraph number 6 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. Zoos, and similar facilities; and
 - e. Rodeos and equestrian events.
4. There is no occupancy limit **for** 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.
5. Amusement parks shall operate at no more than 50 percent of the normal operating limits as determined by the owner.
6. **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, 3 or 5 of the Order No. 11.
7. Only restaurants that have less than 51 percent of their gross receipts from the sale of alcoholic beverages, and whose customers eat or drink only while seated, may offer dine-in services.
8. 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.

9. For purposes of this Order, facilities with retractable roofs are considered indoor facilities, whether the roof is opened or closed.
10. Staff members are not included in determined operating levels, except for manufacturing services and office workers.
11. Nothing in this Order, the Governor's Executive Order(s), as amended, or the DSHS minimum standards precludes requiring a customer to follow additional hygiene measures when obtaining services.

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 <https://www.dshs.state.tx.us/coronavirus/opentexas.aspx> are mandated for all reopened and/or allowed businesses, activities and services as 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. 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 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. 11, all prior County Judge Orders and relevant amendments shall stand superseded. 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 21st day of September of, 2020.

COUNTY OF EL PASO, TEXAS

A handwritten signature in blue ink that reads "Ricardo A. Samaniego". The signature is written in a cursive style and is positioned above a horizontal line.

Ricardo A .Samaniego,
El Paso County Judge