

**SEVENTH LOCAL EMERGENCY DIRECTIVE  
BY THE MAYOR OF THE CITY OF EL PASO, TEXAS**

**ISSUED MARCH 10, 2021**

**WHEREAS**, in December 2019, a novel coronavirus now designated SARS-CoV-2 which causes the disease COVID-19 was identified; 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 pursuant to Texas Government Code Section 418.108; and

**WHEREAS**, on March 17, 2020, the City Council of El Paso adopted an Emergency Ordinance extending the City's state of disaster, instituting emergency measures due to a public health emergency, and authorizing 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, which has continuously been extended through today; and

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

**WHEREAS**, Texas Government Code, Chapter 418 authorizes the emergency management director to issue Directives, which are necessary for the protection of life and property in the City; 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, the prior Mayor of the City of El Paso issued six Local Emergency Directives, and corresponding amendments, since March 24, 2020; and

**WHEREAS**, on October 8, 2020, the City of El Paso joined the rest of Texas in the State's phased reopening through Governor Abbott's Executive Order GA-32 ("GA-32"); and

**WHEREAS**, the City and County experienced the largest surge of COVID-19 cases and hospitalizations during the months of October and November 2020, which was considered to be the largest in the country for a metropolitan area at that time; and

**WHEREAS**, from October 11, 2020, to February 26, 2021, hospitalizations due to COVID-19 were consistently above 15%, which pursuant to GA-32, was considered "high hospitalization" area and limited occupancy on all businesses to no more than 50%; and

**WHEREAS**, on March 2, 2021, the Governor issued his Executive Order GA-34 (“GA-34”) to fully re-open the State of Texas and eliminate a statewide mandate for face coverings to be effective on March 10, 2021; and

**WHEREAS**, GA-34 allows for the County Judge of a jurisdiction within a high hospitalization area to use COVID-19-related mitigation strategies, with certain limitations; and

**WHEREAS**, Trauma Service Area I, which includes El Paso County, was the last area in the entire state to remain on the Texas Department of State Health Services’ website as a high hospitalization area; and

**WHEREAS**, El Paso County businesses remained limited to 50% occupancy through March 4, 2021 in accordance with GA-32, and only left the “high hospitalization” category on March 5, 2021 when notified by the Texas Health and Human Services Commission, and

**WHEREAS**, SARS-CoV-2, the virus that causes COVID-19 is mainly spread from person to person via droplets when people talk, sing, laugh, etc.; and

**WHEREAS**, as of March 2021, more scientific evidence has been published demonstrating the effectiveness of wearing face coverings in preventing COVID-19 infections; and

**WHEREAS**, in this regard, this scientific evidence leads me to believe that if 100% of the people currently wearing masks continue to wear a mask, local businesses will be able to remain open to 100% capacity as long as it enables necessary physical distancing between patrons; and

**WHEREAS**, as of March 5, 2021, there have been over 125,000 El Paso County community members infected with COVID-19, of which over 12,000 individuals have been hospitalized due to COVID-19 and over 2,100 have died as a direct result from COVID-19; and

**WHEREAS**, as of March 5, 2021 the 7-day average of new cases has been greater than 25 cases per 100,000 since October 1st, 2020, which is a level that is considered High by the El Paso Community Scorecard; and

**WHEREAS**, as of March 5, 2021, El Paso has been reporting a positivity rate greater than 5% for many months, which is a level indicative of a high level of community spread; and

**WHEREAS**, as of March 5, 2021, the City and County of El Paso have approximately 13% of the population older than 16 years of age fully vaccinated; at least 75% of those older than 16 years of age would need to be vaccinated in order to be considered to have achieved herd immunity; and

**WHEREAS**, the Centers for Disease Control and Prevention (“CDC”), as a global leader in public health and as the nation’s premiere health promotion, disease prevention and preparedness agency,

advocates for three main methods of preventing COVID-19: 1) correctly wearing a face covering, 2) maintaining six feet of social distancing from those who do not live with you, and 3) avoiding crowds; and

**WHEREAS**, in acknowledgement of the provisions of GA-34 and in order to continue to promote public health safety in light of a persistent pandemic while the community forges ahead with life-saving vaccinations to counter said pandemic, the City adopts the following measures to protect its residents from an escalation of COVID-19 within the region, which includes our immediate neighbor just a few steps across the southern international border, Ciudad Juárez, México.

**NOW THEREFORE, BE IT PROCLAIMED BY THE MAYOR OF THE CITY OF EL PASO, TEXAS, PURSUANT TO THE AUTHORITY VESTED BY THE TEXAS GOVERNMENT CODE CHAPTER 418, HEREBY FINDS AND DIRECTS:**

**SECTION 1. Prevention of COVID-19; Minimize In-Person Contact.**

1. Except as allowed by this Directive, individuals are strongly urged to not gather in groups larger than ten (10), including those within the individual's household, and are strongly recommended to maintain six feet of social distancing from those not in their household. Individuals are advised to not have home gatherings with individuals not within their household, in particular with those who have not also been fully vaccinated against COVID-19. Individuals who serve as caretakers to individuals living in a different home setting, should continue to visit those individuals to provide necessary care. People over the age of 65 who have not been fully vaccinated against COVID-19 are strongly encouraged to stay at home as much as possible; to maintain appropriate distance from any member of the household who has not been fully vaccinated against COVID-19 and 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.
2. **Social Distancing.** In order to collectively work to contain the spread of COVID-19, individuals are strongly urged to adhere to Social Distancing. To the extent individuals are using shared or outdoor spaces, they should 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 as defined in this Section. For purposes of this Directive, Social Distancing includes maintaining at least six-feet of 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.
3. **Face Coverings.** 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 a recognized and important method in helping to slow the spread of the virus. Therefore, it is very strongly urged that every person in El Paso 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.

**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.**

**4. 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. The individual should also follow the City of El Paso Health Authority Order for Release from Home Isolation as published on [epstrong.org](http://epstrong.org).

**SECTION 2. Activities Subject to Restrictions**

1. Nursing homes, state supported living centers, assisted living facilities, and long-term care facilities should follow guidance regarding visitations and should follow infection control policies and practices set forth by Texas Health and Human Services Commission, including minimizing the movement of staff between facilities whenever possible.
2. **City Facilities and Services.** The City has initiated a safe and phased reopening of some City facilities. The City Manager, in consultation with the Local Health Authority’s input, may designate which and how City facilities will open or close and which and how City services will be provided. See **Public Health Authority Orders and Guidance as found at <http://epstrong.org/health-orders.php>**. For clarity, all City parks are open subject to the limitations set forth in this Directive, including playgrounds and fitness equipment within City parks. Face coverings and Social Distancing are required at City facilities, as determined by the City Manager in consultation with the Local Health Authority.

**SECTION 3. Re-Opening of Businesses.**

1. During those times that the City of El Paso is not in an area with high hospitalizations as defined below, there shall be no COVID-19 related operating limits for any business or other establishment; **provided, however, that nothing in this Directive precludes businesses or other establishments from requiring employees or customers to wear a face covering, follow Social Distancing protocols and additional hygiene measures** whether or not the business or other establishment has adopted a formal Health and Safety Policy as described below in this Section 3, subsection 1.b.
  - a. An “area 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 total hospital capacity 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 total hospital capacity is 15 percent or less.

- b. **Health and Safety Policy.** All businesses and other establishments in the City of El Paso are strongly encouraged to develop and implement a health and safety policy (“**Health and Safety Policy**”). The Health and Safety Policy should be posted in a conspicuous location sufficient to provide notice to employees, volunteers and visitors and should require, (except in the case of City of El Paso facilities, it shall require), at a minimum, the following:
    - i. that employees, including volunteers, 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. that all visitors, to include contractors and vendors, wear face coverings while on the business’s premises, with exceptions stated as necessary; and
    - iii. any other mitigating measures designed to control and reduce the transmission of COVID-19 such as temperature checks and health screenings.
  - c. **Individuals frequenting business or other establishments are very strongly urged to adhere to the Social Distancing and face covering provisions in Section 1, subsections 2 and 4 above,** whether or not the business or other establishment has adopted a Health and Safety Policy as set forth in this Section 3.
  - d. For the purposes of this Directive, covered businesses include any for-profit or non-profit entity including the City of El Paso, regardless of the nature of the service, the function they perform, or its corporate or entity structure.
2. In the event the City of El Paso falls within the definition of an area with high hospitalizations, as defined above:
- a. Although there are no state-imposed COVID-19-related operating limits for any business or other establishments, businesses and establishments are strongly encouraged to adopt a Health and Safety Policy as provided in Section 3, subsection 1.b. above.
  - b. **While there is no state-imposed requirement to wear a face covering, all individuals are very strongly urged to do so,** as provided in Section 3, subsection 1.c. above.
  - c. The County Judge may use COVID-19 related mitigation strategies; provided, however, that:
    - i. Business and other establishments may not be required to operate at less than 50 percent of total capacity, with no operating limits allowed to be imposed for the following:
      - a. religious services (including those conducted in churches, congregations, and houses of worship);

- b. public and private schools (the latter of which shall operate as provided by guidance issued by the Texas Education Agency) and institutions of higher education; and
- c. child-care services.

#### **SECTION 4. Incorporation of Local Public Health Authority Orders and Guidance and state health recommendations**

1. Local Public Health Authority Orders and Guidance as found at <http://epstrong.org/health-orders.php> and are offered for all businesses or other establishments, activities and services as provided by this Directive.
2. In providing or obtaining services, every person (including individuals, businesses, and other legal entities) is strongly encouraged to follow the CDC recommendations to slow the spread of COVID-19 found at [How to Protect Yourself & Others | CDC](#), and the Texas Department of State Health Services (“DSHS”) health recommendations, found at [www.dshs.texas.gov/coronavirus](http://www.dshs.texas.gov/coronavirus).

#### **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 Directive issued by the El Paso Mayor during the public health crisis/disaster. 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 Directive in accordance with the authority granted under Chapter 418 of the Texas Government Code. To the extent allowed by law, this Directive 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, except that **no confinement in jail shall be issued as a penalty for violating this Directive and there shall be no criminal or civil penalty for failure to wear a face covering or failure to mandate that customers or employees wear a face covering**, except that a legally authorized official may act to enforce trespassing laws and remove violators at the request of a business establishment or other property owner.

#### **SECTION 6. Posting of This Directive**

The City of El Paso’s Public Information Office will post this Directive and Local Public Health Authority Orders 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 7. Prior Directives**

This Directive is issued in accordance with and incorporates by reference declarations, ordinances, findings, and recitals set out in the preamble to this Directive. Unless specifically referenced in this Seventh Local Emergency Directive, all prior Local Emergency Directives and relevant amendments shall stand superseded.

**SECTION 8. 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.

**SECTION 9. Effective Date.**

This Seventh Local Emergency Directive shall take effect at 12:01 a.m. on March 10, 2021.

**DIRECTED this the 10th day of March, 2021.**

CITY OF EL PASO, TEXAS

  
\_\_\_\_\_  
Oscar Loeser  
Mayor

**ATTEST:**

  
  
\_\_\_\_\_  
Laura D. Prine  
City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Karla M. Nieman  
City Attorney