City of Albuquerque

Office of the Mayor Timothy M. Keller

SEVENTH DECLARATION OF LOCAL EMERGENCY TO DUE TO NOVEL CORONAVIRUS COVID-19

WHEREAS, on March 11, 2020, New Mexico Governor Michelle Lujan Grisham issued Executive Order 2020-004, Order Declaring a State of Public Health Emergency and Invoking the Powers Provided by the All Hazard Emergency Management Act and the Emergency Licensing Act due to confirmation of cases of novel coronavirus COVID-19 in New Mexico; and

WHEREAS, on March 17, 2020, I declared a Local State of Emergency to exist throughout the City of Albuquerque due to the disastrous effects from COVID-19; and

WHEREAS, as a part of that declaration, I issued an order canceling all nonessential City-sponsored gatherings and events and required all places of private employment to take reasonable social distancing measures to minimize exposure of COVID-19; and

WHEREAS, on March 19, 2020, the New Mexico Department of Health issued a public health order forbidding gatherings of ten (10) or more people, requiring restaurants, bars, and breweries to move to delivery or to-go service only, ordering hotels and motels to operate at no more than 50% capacity, and requiring casinos, horseracing facilities, recreational and athletic facilities, health clubs, resort spas, flea markets, theaters including movie theaters, and shopping malls to close in order to limit the spread of COVID-19;

WHEREAS, on March 23, 2020, the New Mexico Department of Health issued a second public health order forbidding gatherings of five (5) or more people outside of the home, requiring all nonessential businesses to cease in-person operations, requiring all call centers to reduce in-person operations by 100%, and directing New Mexico citizens to stay at home while undertaking only those outings absolutely necessary for their health, safety, and welfare, in addition to the directives instated by the order issued on March 19, 2020; and

WHEREAS, on March 30, 2020, I issued a second emergency declaration creating the Micro Business Relief Program and allowing the Albuquerque City Clerk to accept electronic signatures to protect the financial health of businesses that have less financial resiliency against the impacts of the novel coronavirus COVID-19; and

WHEREAS, on April 6, 2020, the New Mexico Department of Health issued a third public health order narrowing the definition of essential businesses, reinforcing the ban of all mass gatherings of five (5) or more people except for groups inside a residence that regularly reside together, ordering all non-essential businesses to reduce any in-person workforces by one hundred percent (100%), reducing the maximum allowable number of customers allowed in an essential retail space to twenty percent (20%) of the maximum occupancy of that retail space as determined by the fire marshal or fire department, ordering all hotels, motels, RV parks, and other places of lodging not to operate at more than twenty-five percent (25%) occupancy with an exception for health care workers engaged in provision of care to individuals utilizing lodging for extended stays, temporary housing, or for purposes of quarantine or isolation due to COVID-19, banning the operation of short-term vacation rentals except for providing housing to out-of-state health care workers who are engaged in the provision of care in New Mexico, reinforcing the prior stay at home order, directing retailers to take action to reduce hoarding, and directing New Mexicans to avoid all nonessential travel and self-quarantine for at least fourteen (14) days after all out of state travel; and,

WHEREAS, on April 10, 2020, I issued a third emergency declaration canceling non-essential events and gatherings, continuing proper disposal of trash and prohibiting dumping, implementing additional safety measures in grocery stores, accelerating public works projects, and authorizing virtual meetings of public boards, commissions and committees; and

WHEREAS, on April 17, 2020, I issued a fourth emergency declaration integrating the measures issued in my three previous emergency declarations; and

WHEREAS , on April 30, 2020, the New Mexico Department of Health issued three Public Health Orders modifying its prior orders as follows: (1) slightly increasing the list of essential businesses allowed to operate, with healthcare restrictions, to also include non-emergency veterinary facilities, pet adoption, pet grooming/daycare/boarding facilities, bike repair facilities, supportive operations for utilities, clarifying that new and used automobile dealers may sell cars through internet sales of other audiovisual means but they may not allow customers in showrooms, and allowing retail businesses that are not "essential businesses" to operate to the minimum extent necessary to provide curbside pickup and/or delivery services but only if those retailers were already legally permitted to provide their services through pickup and delivery, clarifying that animal shelters, zoos, and other animal care facilities are not limited from performing tasks that ensure the health and welfare of animals, allowing federally licensed firearm dealers to operate to the extent necessary to conduct background checks and also allowing individuals to enter said firearm dealer locations by appointment only to take possession of firearms ordered online or through other remote means, allowing golf courses to open on a modified basis for golf only with social distancing and sanitation protocols but with no dine-in or retail services and no golf course

liquor sales, and no curbside liquor sales at any establishment per subsequent clarifications issued by the Director of Alcoholic Beverage Control of the New Mexico Department of Regulation and Licensing; (2) allowing all hospitals and other health care facilities, ambulatory surgical facilities, dental and orthodontic and endodontic offices to gradually resume operations and provide nonessential health care services, procedures, and surgeries, only in strict compliance with the New Mexico Department of Health's "Reopening Guidelines: Medical Offices" and "Medically Necessary Surgery and Procedural Guidelines" addressing Personal Protective Equipment utilization and conservation, decontamination strategies, reporting requirements, staffing requirements, visitor restrictions, and which guidelines are publicly available on the New Mexico Department of Health's website and subject to change as circumstances warrant; and, (3) allowing all polling stations to operate on the days and times provided in the Election Code from early voting through Election Day but with occupancy for non-mobile locations limited to the maximum of either four voters or 20% of the maximum occupancy of the polling location as determined by the fire marshal or fire department, and with the further limitation that mobile polling locations are limited to two voters at any given time, with social distancing and sanitizing protocols inside and outside all polling locations; and

WHEREAS, on May 5, 2020, the New Mexico Department of Health issued a new public health order clarifying that shooting ranges may operate by appointment only and must maintain social distancing, and ordering that, beginning May 6, 2020, all "essential businesses" operating as a "retail space" and having a building footprint greater than 50,000 square feet, and/or operating as a restaurant, must ensure that all employees wear face coverings or medical grade masks, and further ordering that, beginning May 11, 2020, all "essential businesses" operating as a "retail space" must ensure that all employees wear face coverings or medical grade masks; and,

WHEREAS, on May 15, 2020, the New Mexico Department of Health issued a new public health order allowing all small retail businesses to operate at 25% capacity and allowing places of worship to operate at 10% capacity in certain counties, including Bernalillo County, and requiring all New Mexicans to wear face coverings in public; and

WHEREAS, on May27, 2020, the New Mexico Department of Health issued a new public health order, allowing restaurants to offer dine-in service in outdoor seating areas only at up to 50% of their outdoor area fire code maximum occupancy; and

WHEREAS, on June 1, 2020, the New Mexico Department of Health issued a new public health order, allowing all retail businesses to operate at 25% capacity, allowing all indoor shopping malls to operate at 25% capacity providing all food courts remain closed, allowing gyms and exercise facilities to operate at up to 50% capacity but prohibiting group classes, allowing public swimming pools to operate for lane swimming and lessons restricted to two students and at up to 50% capacity and requiring play and splash areas to remain closed, allowing bars to operate for delivery if

allowed under their applicable license, allowing places of lodging to operate at up to 50% of their maximum occupancy while not counting healthcare workers engaged in the provision of care to New Mexico residents or using the facility for extended stays, as temporary housing, or for purposes of quarantining or isolating towards that maximum occupancy, allowing golf courses and outdoor tennis facilities to open provided that they operate in accordance with the All Together New Mexico: COVID-Safe Practices for Individuals and Employers, allowing state parks to open only for day use while requiring camping areas, visitor centers, and other large enclosed indoor spaces normally open to the public to remain closed, and allowing summer youth programs to operate if they do so in accordance with the All Together New Mexico: COVID-Safe Practices for Individuals and Employers; and

WHEREAS, on June 12, 2020, the New Mexico Department of Health issued a new public health order, allowing local breweries licensed under NMSA 1978 § 60-6A-26.1 to offer outdoor and patio service at up to 50% of their maximum fire code occupancy; and

WHEREAS, on June 30, 2020, the New Mexico Department of Health issued a new public health order reaffirming the contents of the previous public health orders and requiring all out-of-state travelers to quarantine for 14 days upon arriving to New Mexico; and

WHEREAS, since my previous emergency declaration and the previous State level declarations, New Mexico has experienced a resurgence in cases of COVID-19, including an increase in cases in Albuquerque and the surrounding areas; and

WHEREAS, on July 9, 2020, in response to this resurgence, New Mexico Governor Michelle Lujan-Grisham announced that the New Mexico Department of Health will issue a new public health order, taking effect on July 13, 2020, prohibiting restaurants from offering indoor dining and restricting outdoor seating to 50% capacity, requiring masks to be worn in all public settings for any reason including exercise, canceling contact sports including, but not limited to, high school football, soccer, and wrestling for the upcoming fall semester, and prohibiting out-of-state visitors from using New Mexico state parks; and

WHEREAS, some individuals who have contracted the virus show no symptoms, and COVID-19 has steadily spread throughout the City of Albuquerque and the State of New Mexico resulting in sickness and deaths across the State and in our City, necessitating ongoing, updated and stringent guidance from local, state, and public health officials; and

WHEREAS, scientific evidence shows that it is essential to slow virus transmission as much as possible to protect the most vulnerable populations and to prevent the healthcare system from being overwhelmed, and that separating people through social distancing and self-isolation are the most effective measures to limit the spread of COVID-19; and

WHEREAS, the necessary business closures and gathering restrictions have been essential to slow the transmission rate of COVID-19 in New Mexico, but have heavily impacted all businesses in the City, especially microbusinesses and small businesses that have less resiliency against these conditions; and

WHEREAS, the intent of this order is to slow the spread of COVID-19 to the greatest extent possible while enabling the continuation of essential services, businesses, and necessary travel to protect public health and safety; and

WHEREAS, the emergency expenditures and the overall magnitude of the financial harm due to COVID-19 and the closing of New Mexico public schools and businesses has yet to be determined; and

WHEREAS, the City of Albuquerque faces the continuing threat of untold damage to public health thereby perpetuating an uncertain financial burden; and

WHEREAS, this local emergency constitutes a public health emergency, and the resulting damage is of such magnitude as to be beyond local control and requires the resources of the State to minimize economic and physical harm necessary to protect the public health, safety, and welfare of the people and property in Albuquerque.

NOW, THEREFORE, I, Timothy M. Keller, Mayor of the City of Albuquerque, by virtue of the authority vested in my office by the Laws of the State of New Mexico and the Albuquerque City Code of Ordinances, do hereby declare the following orders to be necessary for the protection of public health and safety due to the disastrous effects of COVID-19and order that:

1. Pursuant to § 2-9-1-4(F) of the Civil Emergency Powers Ordinance, all nonessential City-sponsored events and gatherings are canceled for the duration of this Order; and

2. Pursuant to § 2-9-1-4(G) of the Civil Emergency Powers Ordinance, the City may enter any agreements regarding the use of property as necessary to address or mitigate the impact of COVID-19 outside the usual real property requirements of§ 2-5-2-1 *et seq.* of the Real Property Transactions Ordinance, and

3. Pursuant to §§ 5-5-19(B)(l) and 5-5-35 of the Public Purchases Ordinance, I find that there are urgent and compelling reasons, including the unforeseen and dangerous situation of the COVID-19 pandemic, enabling the City to make emergency procurements to preserve the peace, health, or safety of people or property within the jurisdiction of the City or to prevent significant economic loss; and

4. Pursuant to§ 2-9-1-4(G) and§ 2-9-1-4(H) of the Civil Emergency Powers Ordinance, the Albuquerque City Clerk and all City departments shall accept electronic signatures, including scanned copies of hard copy signatures, on legal documents, including but not limited to contracts, property agreements, ordinances, and resolutions, and shall attest to electronic signatures of the Mayor and Chief Administrative Officer or their designee, if submitted by the signatory through the signatory's email, to the greatest extent permitted by law; and

5. Pursuant to § 2-9-1-4(H) of the Civil Emergency Powers Ordinance, and the Emergency Selection authorization in § 14-7-2-8 of the Selection Advisory Committee Ordinance, and the Emergency Procurement authorization in §15 of the City Of Albuquerque Regulation Governing The Award/Rejection Of Bids/Offer For Public Works Projects, to ensure the timely and unwavering continuity of public works projects, the Department of Municipal Development shall shorten all pre-construction timelines wherever practicable and promptly forward recommendations of awards to the Chief Administrative Officer for selection with final approval by the Mayor, and said approvals shall be reported on a monthly basis to the City Council; and

6. Residents shall continue to comply with all trash pre-collection practices established in § 9- 10-1-6 of the Health, Safety, and Sanitation Ordinance and shall not engage in dumping, accumulating, or scattering of trash and refuse as prohibited by § 9-10-1-9 of that Ordinance; and

7. Pursuant to § 2-9-1-4(H) of the Civil Emergency Powers Ordinance and the New Mexico Department of Health's public health order that went into effect on May 16, 2020, the following requirements shall apply to all general retail businesses, their employees, and all individuals shopping at general retail businesses and grocery stores within the City of Albuquerque for the duration of this Order:

    a. All general retail businesses shall:
        i. Not assess a charge or fee for providing bags, including recyclable paper bags, compostable bags, or single use plastic bags. Stores may provide customers with single use plastic bags throughout the duration of this Order;
        ii. Not allow employees to do the bagging of purchases in a bag brought by a customer from home;
        iii. Provide access to handwashing facilities, including restrooms, to customers and employees;

iv. Provide regular breaks to employees to enable them to wash their hands throughout the duration of their shifts;
v. Require that all employees and customers wear facial masks or facial coverings, and provide facial masks or facial coverings at the business's expense to employees and customers;
vi. Disinfect shopping carts and shopping baskets at the point of entry and provide disinfecting wipes or materials, as available, for customers to do so;
vii. Provide disinfecting wipes or materials, as available, at cash registers and other frequent touch points;
viii. Provide alcohol-based sanitizers, as available, throughout the store for customers to use;
ix. Implement procedures to disinfect frequent touch points throughout business hours;
x. Discontinue service at all salad bars or hot food bars, self-service food stations, and product tasting or sampling stands;
xi. Designate employees or management personnel who monitor activities throughout business hours to ensure that CDC cleaning guidelines are followed;
xii. Implement measures to ensure that employees and customers remain at least six (6) feet apart whenever possible, including spacing checkout lines by beginning them six (6) feet from checkout counters;
xiii. Monitor social distancing throughout business hours and assist customers in complying with social distancing requirements in stores;
xiv. If the business is a small or medium general retail business, limit the number of customers in the store at any one time, reducing that number to no more than twenty-five percent (25%) of the store's listed maximum occupancy, or increased capacity if allowed by order by the New Mexico Department of Health, including designating staff or management personnel to count the number of customers entering and leaving the store to enforce said limit;
xv. If the business is a large general retail business, limit the number of customers in the store at any one time, reducing that number to no more than twenty percent (20%) of the store's listed maximum occupancy, or increased capacity if allowed by order by the New Mexico Department of Health, including designating staff or management personnel to count the number of customers entering and leaving the store to enforce said limit;
xvi. Mark off six (6) foot spacing where lines occur inside and outside the store; and
xvii. Implement exclusive hours for populations at a high risk of complications from COVID-19, including seniors and people with pre-existing health

e. All general retail businesses are encouraged, to the extent possible, to establish and implement protocols for contactless pickup and delivery.

8. Pursuant to § 2-9-1-4(H) of the Civil Emergency Powers Ordinance, Administrative Instruction 3-7, and Chapter 5, Article 5 of the City Code of Ordinances, I find that there are urgent and compelling reasons, including the unforeseen and dangerous situation of the COVID-19 pandemic, enabling the City to pay for goods and services prior to receiving them when it is necessary to expeditiously order or procure emergency goods and services. However, in the normal course of business for non-prepaid items or services, and absent delays caused by problems with the delivered item or service, a thirty-day payment policy will be achieved for the majority of payment obligations; and

9. Pursuant to the need for responsive and well-informed government continuity during the current emergency, all public boards, commissions, and committees subject to the Public Boards and Commissions Ordinance, § 2-6-1-1 *et seq.,* are hereby authorized to conduct virtual meetings via teleconference or videoconference for the duration of this Order; and

10. Pursuant to the New Mexico Department of Health's series of statewide health orders controlling the definition of essential businesses, cannabidiol (CBD) and similar products businesses do not fall within the New Mexico Department of Health's essential business exception for medical cannabis sales, and are ordered to remain closed for the duration of this Order; and

11. Pursuant to the need to provide financial relief to local businesses that have suffered economic hardships caused by the COVID-19 pandemic, payments to the City of Albuquerque of either the initial Business Registration fee or the annual Business Registration renewal fee may be deferred until the month after the expiration of the declared public health emergency within the City of Albuquerque, and all City inspection fees and City permit fees are waived for temporary outdoor dining areas constructed to serve customers during the current public health emergency; and

12. Pursuant to the New Mexico Department of Health's Public Health order mandating facial coverings, and further pursuant to §§ 2-9-1-4 (F) and (H) of the Civil Emergency Powers Ordinance, the City may refuse entry or remove any person failing or refusing to wear a facial covering from a City facility or City property of any nature including, but not limited to, any City building, Open Space area, BioPark facility, Tingley Beach, public park, bike and/or walking trail, public bus or other public transit vehicle.

13. Pursuant to the scientific evidence that COVID-19 is highly contagious and the virus is ejected into the air when an infected person exhales, coughs, or sneezes and the New Mexico Department of Health's public health orders, all Albuquerque residents, except those who pursuant to CDC guidelines cannot wear facial coverings safely such as children under the age of 2, are required wear a facial covering or medically approved face mask at all times when conducting any in-person activity outside the safety of home; and

14. Pursuant to the scientific evidence that social distancing is the most effective tool to limit the spread of COVID-19, Albuquerque residents are highly encouraged and strongly advised to continue to embrace social distancing protocols and remain at home as much as possible, only leaving the home when necessary; and

15. Pursuant to New Mexico Governor Michelle Lujan Grisham's press conference held on May 13, 2020, where she encouraged all New Mexicans to continue to follow the most current scientific guidance about COVID-19, specifically referencing the resources published by Johns Hopkins University, the City of Albuquerque shall continue to use the Johns Hopkins Coronavirus Resource Center data to analyze and develop evidence-based guidelines for businesses to follow that ensure continued protection of the public health and safety against the spread of COVID-19, and highly encourages and strongly advises all Albuquerque residents to use the same data to make informed, scientifically accurate decisions about how to best respond to COVID-19, especially in regards to social distancing; and

16. If the City Council increases the funding level which may be redistributed or rededicated to help address or combat the proclaimed emergency, then pursuant to any such amendment of § 2-9-1-4 (F) of the Civil Emergency Powers Ordinance, those additional funds shall be redistributed by the directive of the Mayor; and

17. Pursuant to §§2-9-1-4 (F) and (H) of the Civil Emergency Powers Ordinance, the City may restrict out-of-state visitors from any City facility or City property of any nature including, but not limited to, any City building, Open Space area, BioPark facility, Tingley Beach, public park, bike and/or walking trail, public bus or other public transit vehicle. Visitors may be required to demonstrate residency by producing a valid New Mexico driver's license or ID card, a New Mexico vehicle registration, federal documents attesting to residency, utility bill, or military identification.

18. Pursuant to New Mexico State Criminal Trespass Statute, NMSA 1978 §30-14-1, and the City of Albuquerque Criminal Trespass Ordinance, ROA §12-2-3, violators of the New Mexico Department of Health's Order mandating facial coverings at the Albuquerque

International Sunport or any other City property may be cited for criminal trespass and subject to immediate removal from the property.

19. Pursuant to § 2-9-1-4 (H) of the Civil Emergency Powers Ordinance, the City may suspend all contact and combat sports within City limits.

20. Pursuant to §§ 2-9-1-4 (E) and (H) of the Civil Emergency Powers Ordinance, the City may order the closure of any business, commercial property, non-State campus, or industrial operation that fails or refuses to enforce the State Department of Health's facial covering mandate, and may further order the closure of any business, non-State campus, commercial property, or industrial operation that fails or refuses to employ adequate staff or security to require compliance with the public health emergency facial covering mandate and/or the public health emergency occupancy limit.

21. Pursuant to § 2-9-1-5 and § 2-9-1-7 of the Civil Emergency Powers Ordinance, the Albuquerque Police Department may enforce this declaration and the State's Public Health Orders and all orders contained within. The Code Enforcement Division of the Planning Department, Open Space personnel, Parks Management personnel, Department of Municipal Development Security personnel, Transit Security personnel, Parking Enforcement personnel, Environmental Health Department personnel, and the Fire Marshal's Office of Albuquerque Fire Rescue may provide education and report violations of this declaration and all orders contained within, and may enforce such orders to the maximum extent permitted to personnel who are not law enforcement officers; and

22. Pursuant to § 2-9-1-6 of the Civil Emergency Powers Ordinance, the Albuquerque City Council may extend this declaration for additional periods of time prior to its expiration as it deems necessary; and

23. The New Mexico Department of Health and the New Mexico Governor may update information and restrictions as necessary to respond to the evolving circumstances of this outbreak, and the City may issue further declarations of emergency in response to such information, and if those declarations include stricter measures than those previously issued, such stricter measures shall control and supersede those previously issued measured; and

24. To the extent that this Order is in conflict with earlier Orders, this Order shall supersede the others;

25. As Mayor, I further reserve all other authority and powers conferred by the Revised Ordinances of Albuquerque and New Mexico state law to respond as necessary to this situation.

I REQUEST from the New Mexico State Department of Homeland Security and Emergency Management and other appropriate State agencies, financial assistance to supplement the necessary actions taken in response to the local emergency from COVID-19 that has occurred beginning on March 10, 2020 and is currently ongoing and increasing in intensity..

I REQUEST financial assistance from the Federal Emergency Management Agency and other appropriate federal agencies to mitigate the costs incurred during this emergency.

This declaration shall take effect immediately from and after its issuance and shall be in place for thirty (30) days, and may be extended or terminated prior to that time.

SIGNED ON THIS 13 DAY OF JULY, 2020.

TIMOTHY M. KELLER
MAYOR OF ALBUQUERQUE