



# City of Albuquerque

*Office of the Mayor Timothy M. Keller*

## **FORTIETH DECLARATION OF LOCAL EMERGENCY DUE TO NOVEL CORONAVIRUS COVID-19**

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**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, pursuant to Albuquerque's Civil Emergency Powers Ordinance, I declared a Local State of Emergency throughout the City of Albuquerque due to the disastrous effects of the COVID-19 pandemic; and

**WHEREAS**, the human suffering and losses caused by the pandemic steadily worsened within our City through February of 2021, at which time our City began to show positive signs that we are slowly but steadily beginning to emerge from the worst and deadliest stages of the pandemic; and

**WHEREAS**, there have been recent indications that newer variants of COVID-19 will continue to spread and cause further losses;

**WHEREAS**, there is a substantial risk of a surge of infections during the fall and winter months;

**WHEREAS**, hospitals and healthcare facilities throughout the City are reaching critical levels of occupancy due to the ongoing concurrent surges of COVID-19, respiratory syncytial virus (RSV), and influenza cases;

**WHEREAS**, our continued vigilance, serious caution, and community support are the keys to eventually fully emerging from this health care crisis, and therefore I have issued, and shall continue to issue, an explicit series of thirty (30) day declarations comprised of local orders that are necessary to protect the health, safety, and welfare of the citizens of Albuquerque; 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; and

**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 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 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 out of state travel; 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 May 27, 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 1, 2020, the City Council passed and adopted Bill No. 0-20-16, which I then approved and signed into law on June 3, 2020, thereby enacting the Temporary Outdoor Dining Ordinance, to assist businesses to increase customer traffic and to assist consumers by providing healthier outdoor dining options in a manner that helps promote the health, safety, and general welfare of restaurant staff and their customers; and

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

**WHEREAS**, on June 15, 2020, the City Council passed and adopted Bill No. 0-20-23, which I then approved and signed in to law on June 26, 2020, thereby enacting the Temporary Outdoor Retail Ordinance to help certain retail businesses increase readily accessible retail areas by converting parking spaces, setback areas and landscaped areas into outdoor retailing and curbside pickup areas, and to help consumers by providing open air shopping opportunities in a manner that promotes the health, safety, and welfare of retail staff and their customers; 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**, on July 13, 2020, the New Mexico Department of Health issued an amended public health order 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**, on August 6, 2020, New Mexico Governor Michelle Lujan Grisham issued Executive Order 2020-056 directing individuals traveling to New Mexico to self-isolate or self-quarantine for a limited period and directing the New Mexico Department of Health to initiate lawful isolation and quarantine proceedings for individuals who do not self-isolate or self-quarantine, and explicitly mandating that, subject to certain exceptions: (1) family or household members who visit an isolated or quarantined person must then self-quarantine for no less than 14 days, (2) all persons self-quarantining because of out-of-state travel shall be responsible for all costs associated with the self-quarantine, (3) any New Mexico resident leaving the State for vacation or other leisure activities must self-quarantine for no less than 14 days, and any such traveler is not eligible for paid sick leave pursuant to the federal Families First Coronavirus Response Act, (4) authorizing the New Mexico Department of Health to involuntarily quarantine any individual who does not comply with the quarantine directive, and (5) directing the New Mexico Department of Health, with cooperation from all other executive agencies, to take all necessary steps to ensure such screening and quarantining, including imposing temporary holds of individuals or groups, obtaining court orders to quarantine, and imposing any civil or criminal penalties warranted under the Public Health Emergency Response Act and the Public Health Act; and

**WHEREAS**, on August 28, 2020, New Mexico Governor Michelle Lujan Grisham issued Executive Order 2020-059 extending the declaration of a statewide public health emergency and renewing prior emergency orders through September 18, 2020; and

**WHEREAS**, on August 28, 2020, the New Mexico Department of Health issued a new public health order renewing prior public health orders with modifications and clarifications as follows: (1) increasing allowed “mass gatherings” from no more than five individuals not residing together to no more than ten individuals not residing together, (2) reiterating that “close-contact recreational facilities” such as indoor movie theaters, indoor museums with interactive displays or exhibits, bowling alleys, miniature golf, arcades, amusement parks, aquariums, concert venues, professional sports venues, performance venues, go-kart venues, automobile racetracks, adult entertainment venues, dance clubs, and bars, must remain closed, (3) allowing all other businesses whether or not deemed “essential” to operate at 25% of the maximum occupancy of any enclosed space as determined by the relevant fire marshal or fire department, (4) allowing “food and drink establishments” to provide indoor dining at 25% occupancy and outdoor dining at 75% occupancy, (5) allowing “houses of worship” to operate at 40% occupancy, (6) allowing places of lodging to operate at 50% occupancy, and (7) clarifying that all allowed businesses must adhere to New Mexico’s published COVID-19 Safe Practices and Reentry Guidance, including private pre-Kindergarten through 12<sup>th</sup> grade educational institutions; and

**WHEREAS**, on September 3, 2020 the New Mexico Department of Health issued a new public health order renewing prior public health orders, and allowing places of lodging that have completed the NM Safe Certified Training to operate at 75% occupancy; and

**WHEREAS**, on September 3, 2020, New Mexico Governor Michelle Lujan Grisham issued Executive Order 2020-063, effective September 4, 2020, ordering that, subject to certain exceptions, all persons arriving to New Mexico from a state with a positive test rate higher than 80 per 100,000 residents or a test positivity rate greater than or equal to 5%, over a seven-day rolling average, or from outside the United States, must self-isolate or self-quarantine for a period of at least 14 days from the date of their entry into the State of New Mexico or for the duration of their presence in the State, whichever is shorter, and further ordering that persons coming into New Mexico from another state, but not another country, who can show documentation of a valid negative COVID-19 test taken within seventy-two (72) hours before or after entry into New Mexico are exempt from the 14 day quarantine requirement. Exempt travelers are still advised to self-quarantine. EO 2020-063 also reiterated that State government personnel who vacation out of New Mexico, and therefore must self-quarantine, are not eligible during self-quarantine for paid leave provided by the Families First Coronavirus Response Act; and

**WHEREAS**, on September 18, 2020, the New Mexico Department of Health issued an updated Public Health Order reinforcing prior orders while amending certain provisions to allow bowling alleys to operate for league play only, ice skating rinks to operate for athletic training and practice by reservation only, camping in State Parks, and use of public swimming pools by not more than ten (10) persons concurrently; and

**WHEREAS**, on October 8, 2020, Governor Michelle Lujan Grisham presented scientific evidence that the number of COVID-19 cases has again rapidly started to rise at an alarmingly dangerous rate despite having trended downward over the past two months, and the Governor issued a warning that all New Mexicans must immediately exercise extreme caution and wear facial masks to reduce exposure to the virus and reverse the recent surge so that our State can protect the health, safety, and welfare of the public, and prevent the reversal of our re-opening efforts; and

**WHEREAS**, on October 16, 2020, the New Mexico Department of Health, through Acting Secretary Billy J. Jimenez, issued a new Public Health Order confirming restrictions imposed in prior Orders but decreasing lodging establishment occupancy rates from 75% to 60% for lodging establishments that completed the New Mexico Safe Certified training, and decreasing occupancy from 50% to 25% for those lodging establishments that did not complete such training, and further ordering that any food or drink establishment that is permitted to serve alcohol must close by 10:00 p.m.; and

**WHEREAS**, on October 21, 2020, New Mexico Governor Michelle Lujan Grisham issued Executive Order 2020-072 directing all persons who enter New Mexico from a state with a COVID-19 positive test rate higher than 80 per 1,000,000 residents or a test positivity rate greater than or equal to 5% to self-quarantine for 14 days, and further advising all persons who enter New Mexico from states with positive rates below those amounts to self-quarantine and be tested for COVID-19 within 5 to 7 days after their return to New Mexico; and

**WHEREAS**, on October 22, 2020, the New Mexico Department of Health issued an amended Public Health Order extending the restrictions from prior orders but reducing the allowed “mass gathering” limit to five persons, and mandating that any essential business identified as a “retail space” remain closed between the hours of 10:00 p.m. and 4:00 a.m., and all food and drink establishments must complete the New Mexico Safe Certified training in order to provide indoor dining after October 30, 2020, and further ordering that any “food and drink establishment,” “close contact business,” “place of lodging,” “retail space,” or other business that poses a significant public health risk as determined by the Department of Health, must close for a period of two weeks following the occurrence of four (4) or more rapid responses within a fourteen (14) day period, although a “retail space” may be permitted to continue to operate if the Department of Health, after consultation with the State Environmental Department, determines that the business is a necessary provider of goods and services within the community in light of geographic considerations; and

**WHEREAS**, by October 30, 2020, New Mexico tragically surpassed 1,000 deaths caused by the pandemic, and therefore on that date, New Mexico Governor Michelle Lujan Grisham issued Executive Order 2020-76 ordering flags to half-staff from November 2, 2020, till sunset on November 6, 2020, comprising a week of mourning in memory of those who have lost their lives and to honor their family members and loved ones; and

**WHEREAS**, on November 30, 2020, the New Mexico Department of Health issued a new Public Health Order, effective December 2, 2020, imposing a county by county “Red, Yellow, or Green” metric-based reopening framework based on thresholds for (1) infection testing positivity rates (5%) and (2) per capita infection rates (8 per 100,000), which shall determine the operational level and mandatory restrictions applicable at any given time in any particular county in New Mexico. Red is most restrictive and applies when neither metric is satisfied, Yellow applies when one metric is satisfied, and Green applies when both metrics are satisfied. At this time, the situation in Bernalillo County, where Albuquerque is located, is dire and is rated as Red.

**WHEREAS**, on December 9, 2020, the New Mexico Department of Health issued two Public Health Orders imposing a temporary ban on non-essential surgical procedures through January 4, 2021, and recognizing the activation of crisis care standards and the credentialing of approved health care providers thus deeming them public employees for purposes of the New Mexico Tort Claims Act; and

**WHEREAS**, on December 15, 2020, the New Mexico Department of Health issued two additional Public Health Orders modifying the Red, Yellow, Green framework to remove the 75 person occupancy limit on essential businesses that had been imposed by the December 2, 2020 order while retaining the 25% occupancy limit on such businesses, and specifying the demographic data and contact tracing data that must be reported to the Department of Health by laboratories and submitters pertaining to required infectious disease reporting; and

**WHEREAS**, on December 30, 2020, New Mexico Department of Health issued an updated Public Health Order reiterating the Red, Yellow, Green framework set forth in the December 15, 2020, Public Health Order; and

**WHEREAS**, in addition to Public Health Orders, the New Mexico Department of Health publishes Guidance Documents primarily consisting of COVID Safe Practices (CSP's) which frequently contain related Re-opening Guidelines, and the State of New Mexico has further determined that Public Health Orders apply to given situations "unless specified otherwise in the pertinent CSP's in which case the limits in the CSP's are controlling" over less specific language in a Public Health Order; and such CSP's are continually revised by the State depending on COVID infection rates, and this approach allows the State to more timely revise and update its rules for controlled reopening, or reclosing, of public schools, professional sports events, collegiate and youth sports, and other activities;

**WHEREAS**, on January 29, 2021, New Mexico Governor Michelle Lujan Grisham issued Executive Order 2021-004 renewing the declaration of a public health emergency, and reiterating that all measures in prior orders remain in effect unless modified by a subsequent order, and Governor Michelle Lujan Grisham additionally issued Executive Order 2021-006 rescinding Executive Order 2020-075 that had directed a 14 day quarantine for people travelling into New Mexico from another state, and replacing the directive with an advisory to self-isolate or self-quarantine for 14 days and obtain a COVID-19 test as promptly as possible upon their arrival to New Mexico.

**WHEREAS**, on February 10, 2021, pursuant to the Red, Yellow, Green framework set forth in the December 15, 2020, New Mexico Department of Health Public Health Order, Bernalillo County's rating progressed from Red to Yellow, allowing for the following revised limitations applicable to the Yellow rating:

- Essential businesses (non-retail): No capacity restrictions but operations must be limited to only those absolutely necessary to carry out essential functions
- Essential retail spaces: 33% of maximum capacity

- Food and drink establishments: 25% of maximum capacity for indoor dining; 75% of maximum capacity for outdoors dining; any establishment serving alcohol must close by 10 p.m. each night
- Close-contact businesses: 25% of maximum capacity or 20 customers at one time, whichever is smaller
- Outdoor recreational facilities: 25% of maximum capacity (unless required to have less capacity under the state’s COVID-Safe Practices)
- Close-contact recreational facilities: Remain closed
- All other businesses: 25% of maximum capacity or 125 customers at one time, whichever is smaller
- Houses of worship: May hold religious services, indoors or outdoors, or provide services through audiovisual means, but may not exceed 33% of the maximum capacity of any enclosed space on the premises
- Places of lodging: 60% of maximum occupancy for those that have completed “NM Safe Certified” training; 25% of maximum occupancy for all others; 5 guests maximum for vacation rentals
- Mass gatherings limit: 10 persons, 80 vehicles

**WHEREAS**, on February 24, 2021, the New Mexico Department of Health issued a revised Public Health Order amending the Red, Yellow, Green framework to adjust restrictions in each of those prior levels and to add a Turquoise level for Counties that satisfy the metrics required to operate at Green level for the two most recent 14-day reporting periods. It also added a definition for “Large entertainment venues” that include venues such as convention centers, concert venues, movie theaters, performance venues, professional or semi-professional sports venues, racetracks, and theaters, as well as a definition for “Bars and clubs” that include businesses that are not defined as “food and drink establishments” and that typically generate more than half of their revenue from the sale of alcohol for on-premises consumption, as well as adult entertainment venues, nightclubs, and dance clubs, regardless of the source of their revenue. The revised Public Health Order generally left prior restrictions intact, but included the following adjustments:

Red: the revised order increased mass gatherings within vehicles from ten (10) vehicles to forty (40) vehicles but no food or drink may be sold at the vehicular gathering; removed the seventy-five (75) customer occupancy cap on essential businesses but left the occupancy percentage in place; large entertainment venues may not operate; bars and clubs may not operate; outdoor recreational facilities and food and drink establishments may allow customers to use indoor restrooms.

Yellow: the revised order increased gatherings within vehicles from twenty-five (25) vehicles to eighty (80) vehicles but no food or drinks may be sold at the vehicular gathering; removed the one hundred twenty-five (125) customer occupancy cap on essential businesses but left the occupancy

percentage in place; large entertainment venues may operate at 25% occupancy of any outdoor space, patrons may use indoor restrooms, and the venues may broadcast or record entertainment indoors but without an in-person audience; recreational facilities may operate at 33% occupancy, patrons may use indoor restrooms; bars and clubs may not operate; food and drink establishments complying with NM Safe Certified requirements may operate indoors at 33% occupancy; places of lodging that have not completed the NM Safe Certified training may operate at 33% occupancy; close contact businesses may not exceed the lesser of 33% occupancy or twenty (20) customers inside the building.

Green: the revised order increased gatherings within vehicles from one hundred (100) vehicles to one hundred twenty (120) vehicles but no food or drink may be sold at the vehicular gathering; large entertainment venues and recreational facilities may operate indoors at 25% occupancy and outdoors at 50% occupancy; food and drink establishments complying with NM Certified Safe requirements may operate at 50% occupancy indoors and 75% occupancy outdoors; bars and clubs may operate outdoors at 25% occupancy and patrons may use indoor restrooms; State museums may operate at 50% occupancy.

Turquoise: the revised order added this new level stating that mass gatherings of more than one hundred fifty (150) individuals are prohibited, and mass gatherings within vehicles may not exceed two hundred (200) vehicles, and did not include a prohibition on the sale of food and drinks at the vehicular gathering; essential businesses may operate at 75% occupancy indoors and 100% occupancy outdoors; houses of worship may operate at 75% occupancy indoors; large entertainment venues may operate at 33% occupancy indoors and 75% occupancy outdoors; recreational facilities may operate at 50% occupancy indoors and 75% occupancy outdoors; bars and clubs may operate at 33% indoors and 75% outdoors; food and drink establishments complying with NM Safe Certified requirements may operate at 75% occupancy indoors and outdoors.

**WHEREAS**, on April 28, 2021, the New Mexico Department of Health issued a new Public Health Order raising the thresholds in the Red to Turquoise rating system from (1) infection testing positivity rates of 7.5% instead of the prior 5%, (2) per capita infection rates from 10 per 100,000 instead of the prior 8 per 100,000, and (3) introducing an additional measure based on the percentage of vaccine-eligible residents who are fully vaccinated, with such measure being 35% beginning on the date of the Order, followed by 40% beginning the week of May 3, 2021, and increasing 5% every other week thereafter; and

**WHEREAS**, on May 14, 2021, the New Mexico Department of Health issued a new Public Health Order stating that, pursuant to new guidance from the Centers for Disease Control and Prevention (CDC), fully vaccinated individuals are no longer required to wear masks or socially distance from

other individuals unless otherwise recommended by the CDC, and allowing entities to continue to impose mask-wearing requirements if they so choose; and

**WHEREAS**, on June 2, 2021, the New Mexico Department of Health issued a new Public Health Order stating that all counties in New Mexico were now placed within the Turquoise level in the State's Red-to-Turquoise framework, reflecting a decreased but not eliminated risk of viral transmission statewide, and that the State of New Mexico was closely monitoring vaccination rates and working with local officials to increase vaccinations; and

**WHEREAS**, on August 2, 2021, the Governor issued Executive Order 2021-046, requiring State employees who are not fully vaccinated against COVID-19 and willing and able to provide adequate proof of such vaccination to provide adequate proof that the employee has tested negative for COVID-19 on a weekly basis and wear a face covering at all times during the course and scope of their employment; and

**WHEREAS**, on August 17, 2021, the New Mexico Department of Health issued a new Public Health Order stating that, unless a healthcare provider instructs otherwise, all individuals age 2 years and older shall wear a mask or multilayer cloth face covering in all indoor public settings except when eating or drinking. It also states that any business, establishment, or non-profit (other than those which are a healthcare operation, utility, or indigent care services) which members of the public regularly visit must report to the New Mexico Environment Department when there is an occurrence of a rapid response and broadening the applicability of the Public Education Department's Re-Entry Guidance and COVID-safe practices; and

**WHEREAS**, on September 15, 2021, the New Mexico Department of Health issued a new Public Health Order requiring that all School Workers Comply with Certain Health Requirements and Requiring Congregate Care Facility Workers, Hospital Workers, and Employees of the Office of the Governor be fully vaccinated and carrying forward the other provisions of the previous Public Health Order; and

**WHEREAS**, on October 18, 2021, the New Mexico Department of Health issued a new Public Health Order establishing crisis care standards and the credentialing and approval of state credentialed physicians and credentialed advanced practice physicians in response to medical staff shortages and carrying forward the other provisions of the previous Public Health Order; and

**WHEREAS**, on November 12, 2021, the New Mexico Department of Health issued a new Public Health Order clarifying that Current Guidance Documents, Advisories, and Emergency Public Health Orders Remain in Effect; and

**WHEREAS**, on December 2, 2021, the New Mexico Department of Health issued an Amended Public Health Order requiring that all School Workers Comply with Certain Health Requirements and Requiring Congregate Care Facility Workers, Hospital Workers, and Employees of the Office of the Governor be fully vaccinated, receive booster vaccines, and carrying forward the other provisions of the previous Public Health Order; and

**WHEREAS**, on December 10, 2021, the New Mexico Department of Health issued a new Public Health Order clarifying that Current Guidance Documents, Advisories, and Emergency Public Health Orders remain in effect and amending prior Public Health Emergency Orders to impose certain public health measures; and

**WHEREAS**, on January 7, 2022, the New Mexico Department of Health issued a new Public Health Order clarifying that Current Guidance Documents, Advisories, and Emergency Public Health Orders remain in effect and amending prior Public Health Emergency Orders to impose certain public health measures; and

**WHEREAS**, on February 4, 2022, the New Mexico Department of Health issued a new Public Health Order clarifying that Current Guidance Documents, Advisories, and Emergency Public Health Orders remain in effect and amending prior Public Health Emergency Orders to impose certain public health measures; and

**WHEREAS**, on February 17, 2022, the New Mexico Department of Health issued a new Public Health order stating that individuals are no longer required to wear masks in indoor public settings, allowing entities to continue to impose mask-wearing requirements if they so choose, and continuing to require all individuals ages 2 years and older to wear a mask or multilayer cloth face covering in all public hospitals, profit or nonprofit private hospitals general hospitals, special hospital nursing homes, assisted living facilities, adult day cares, hospice facilities, rehabilitation facilities, State correctional facilities, juvenile justice facilities, residential treatment centers, the New Mexico State Veterans' Home, and community homes except when eating or drinking; and

**WHEREAS**, on March 18, 2022, the New Mexico Department of Health issued a new Public Health Order clarifying that Current Guidance Documents, Advisories, and Emergency Public Health Orders remain in effect and amending prior Public Health Emergency Orders to impose certain public health measures; and

**WHEREAS**, on April 15, 2022, the New Mexico Department of Health issued a new Public Health Order clarifying that Current Guidance Documents, Advisories, and Emergency Public Health Orders remain in effect and amending prior Public Health Emergency Orders to impose certain public health measures; and

**WHEREAS**, on May 16, 2022, the New Mexico Department of Health issued a new Public Health Order clarifying that Current Guidance Documents, Advisories, and Emergency Public Health Orders remain in effect and amending prior Public Health Emergency Orders to impose certain public health measures; and

**WHEREAS**, on June 15, 2022, the New Mexico Department of Health issued a new Public Health Order clarifying that Current Guidance Documents, Advisories, and Emergency Public Health Orders remain in effect and amending prior Public Health Emergency Orders to impose certain public health measures; and

**WHEREAS**, on July 15, 2022, the New Mexico Department of Health issued a new Public Health Order clarifying that Current Guidance Documents, Advisories, and Emergency Public Health Orders remain in effect and amending prior Public Health Emergency Orders to impose certain public health measures; and

**WHEREAS**, on August 12, 2022, the New Mexico Department of Health issued a new Public Health Order clarifying all Orders, Directives, Guidance and Advisories remaining in effect and imposing certain public health measures; and

**WHEREAS**, some individuals who have contracted the COVID-19 show no symptoms, and the transmission of the virus by asymptomatic individuals has resulted 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**, although the COVID-19 vaccination rates are now increasing in the City of Albuquerque and in many areas within the State of New Mexico, with nearly 80% of Bernalillo County being fully vaccinated as of the date of this order, scientific evidence shows that it is essential to continue to take measures to slow virus transmission as much as possible to protect the most vulnerable populations; and

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

**WHEREAS**, businesses that flaunt restrictions put in place to slow the transmission rate of COVID-19 threaten the health of the community; 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 partial but significant closing of New Mexico public schools and businesses has yet to be determined; and

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

**WHEREAS**, City projects are incurring significant unforeseen expenses due to supply chain and labor shortages caused by the pandemic; and

**WHEREAS**, the pandemic has resulted in a surge of homelessness across the City, leaving many residents unhoused; and

**WHEREAS**, the City has faced a surge in homelessness since the beginning of the COVID-19 pandemic, causing the City to develop new programs, policies, and permanent and temporary sites to house those experiencing homelessness; and

**WHEREAS**, thousands of migrants from Latin America have gathered at or near the United States – Mexico border anticipating that President Biden will ease immigration restrictions that will make it easier to enter the United States; and

**WHEREAS**, on April 1, 2022, the Centers for Disease Control and Prevention (“CDC”) announced the repeal of the Public Health Services Act, 42 U.S.C. § 265 (“Title 42”), a move that would allow for the inflow of migrants from the southern border; and

**WHEREAS**, Department of Homeland Security enforcement of Public Health Services Act, 42 U.S.C. § 265 (“Title 42”) is scheduled to conclude on or about December 27, 2022; and

**WHEREAS**, with the repeal of Title 42, people of all nationalities will soon be able to declare asylum at the U.S. borders, and the number of asylum seekers is expected to dramatically increase, especially in the City of Albuquerque due to its proximity to the southern border; and

**WHEREAS**, the release of mass groups of people without access to potable water, food, or shelter exposes the migrants, asylum seekers, and City residents to the origination and spread of potential and actual disease, including influenza, RSV, and COVID-19; and

**WHEREAS**, a dramatic increase in the influx of migrants seeking shelter and asylum from foreign countries will significantly increase the need to provide shelter, transportation, food and services, basic health and first aid needs, COVID-19 testing and associated medical care needed during quarantine and isolation, and other supportive services within the State of New Mexico and specifically within the City; and

**WHEREAS**, there are significant public safety and security concerns related to the wave of migration, including but not limited to the risk to injury or loss of life of migrants in City streets with little or no resources on days that reach extreme temperatures, the spread of illness, such as influenza, RSV, or COVID-19, and the inherent risks that come with increased demand on local shelters; and

**WHEREAS**, the City is faced with the imminent threat of widespread injury or loss of life resulting from a surge in transient migrants traveling to the region during an ongoing global pandemic; and

**WHEREAS**, emergency actions are necessary to address the supply chain shortages, labor shortages, and to build critical infrastructure to respond to the increase in the number of persons experiencing homelessness; and

**WHEREAS**, the construction of critical infrastructure and designation of emergency shelters may help alleviate the spread of COVID-19; 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; and

**WHEREAS**, since my previous emergency declaration issued on November 28, 2022, the United States has continued to detect the presence of several more contagious strains of the virus, and New Mexico has now experienced more than 655,000 individual infections and over 8,760 deaths caused by COVID-19.

**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-19 and order that:

1. 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

2. Pursuant to §§ 5-5-19(B)(1) 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, the resulting supply chain issues, labor shortage, increase in persons experiencing homelessness, and influx of migrants to enable 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; including emergency procurements for mass emergency sheltering and other emergency actions that may arise due to a surge in migration; and
3. 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
4. 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 quarterly basis to the City Council; and
5. 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
6. 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

7. 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, should they so choose. However, boards, commissions, or committees, which conduct merits hearings, including but not limited to the Board of Ethics and Campaign Practices, the Personnel Board, and the Labor Management Relations Board may take testimony in person to facilitate fact finding at their discretion; and
8. Pursuant to the scientific evidence that social distancing and vaccination are the most effective tools to limit the spread of COVID-19, Albuquerque residents are highly encouraged and strongly advised to continue to embrace social distancing protocols and to seek a free vaccination through the New Mexico Department of Health if they are able to do so, more information on which can be found at <https://cv.nmhealth.org/covid-vaccine/>; and
9. Pursuant to the City's goal to facilitate the adoption of pets, especially during the public health emergency when many residents may have more time at home allowing them to benefit from the companionship and health benefits associated with pet ownership, all pet adoption fees are temporarily waived and interested residents are encouraged to search for a new pet online at <http://www.cabq.gov/pets/> or by making arrangements to visit the Animal Welfare Department; and
10. 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
11. 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

12. 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 public health orders or the orders contained in this Declaration; and
13. Pursuant to § 2-9-1-4 (H) of the Civil Emergency Powers Ordinance, any business, commercial property, non-State campus, or industrial operation that violates any provision of this declaration shall be prohibited from renewing its business license for the duration of this order; and
14. Pursuant to § 2-9-1-4 (H) of the Civil Emergency Powers Ordinance, any food-service establishment, food processing establishment, temporary food-service establishment, push cart or mobile food unit, as defined by § 9-6-1-2 of the Food and Beverages Ordinance, and any food establishment or temporary food establishment, as defined by § 9-6-2-2 of the Retailers, Meat Markets, and Wholesalers Ordinance, that has its permit revoked shall be prohibited from applying for a new food permit for the duration of this order; and
15. Pursuant to § 2-9-1-4 (H) of the Civil Emergency Powers Ordinance, in order to minimize exposure to COVID-19, when the City is required to serve legal notice, the City may effect service of this notice by publication in a newspaper of general circulation and/or posting a copy of the notice on the serveree's place of business or residence instead of physically delivering notice to a serveree; and
16. Pursuant to § 2-9-1-4 (H) of the Civil Emergency Powers Ordinance and § 9-6-1-7(C)(2) of the Food Sanitation Ordinance, in order to minimize exposure to COVID-19, a business whose business permit is suspended has five (5) days to appeal the suspension in writing and shall have a hearing within five (5) days of that written appeal. An order on the merits of that appeal shall be issued within 48 hours, except in cases of significant complexity, in which case an order shall be issued in no more than 120 hours. Should the business fail to appeal within five (5) days or the administrative hearing uphold the suspension the City may force the closure of the business with measures, which may include, but are not limited to, preventing ingress and egress to the business the building; and
17. Pursuant to §§ 2-9-1-4 (A), (C), (E), and (H) of the Civil Emergency Powers Ordinance, in order to protect health, safety, and welfare of the public by minimizing exposure to the novel coronavirus COVID-19 infectious disease and to prevent

inundating and overwhelming the available health care system, the City may order the closure of any streets, and/or places of mass assembly, and/or places of private employment, and/or impose Stay At Home orders requiring the public to remain in the safety of their homes except for essential trips, as may be explicitly listed in said Stay At Home orders, for the purpose of obtaining items necessary for the preservation of life such as medicine, medical care, fuel, and food. Pursuant to § 2-9-1-5 for the Publication of Orders pursuant to the Civil Emergency Powers Ordinance, the Mayor shall immediately deliver a copy of such a declaration and all associated orders to the Albuquerque Police Department, Albuquerque Fire and Rescue, all major media outlets serving the City, and the City Councilors. The Mayor shall also post a copy of such orders to the City's website, distribute them through the City's primary social media accounts, and take such additional reasonable measures necessary to inform impacted persons and businesses of the emergency declaration and associated orders; and

18. The administration is authorized to take such actions as may be required to ease the burdens on emergency rooms and the broader healthcare system caused by high numbers of COVID-19 cases, which have necessitated the NMDOH to establish crisis care standards; and
19. 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, Solid Waste Management Department, 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
20. Pursuant to § 2-9-1-4 of the Civil Emergency Powers Ordinance, facilities that provide incidental activities for the health and safety of City residents may have use specific project size restrictions temporarily waived; and
21. Pursuant to § 2-9-1-4 of the Civil Emergency Powers Ordinance, some technical specifications of use for temporary emergency shelters at religious institutions may be waived on an as-needed basis in order to accommodate the health, safety, and welfare of City residents as the winter months progress; and

22. Pursuant to § 2-9-1-4 of the Civil Emergency Powers Ordinance, special protocols are authorized to temporarily waive zoning requirements for City facilities zoned as NR-SU that are more than 100 acres that are providing services deemed imminently necessary for the protection of health, safety, and welfare; and
23. Pursuant to § 2-9-1-4 of the Civil Emergency Powers Ordinance, the City may utilize public funds for staff to coordinate resources and supplies for necessary emergency actions, including but not limited to, facilitate transportation, provide temporary shelters, food, clothing, and any other basic human necessities, and coordinate medical volunteers to provide health evaluations, including COVID-19 testing, for migrants and asylum seekers within the City; and
24. Pursuant to § 9-5-1-98(A)(1) of the Joint Air Quality Control Board Ordinance and § 74-2-12(A)(1) of the Air Quality Control Act, the City may take steps to facilitate the safe and respectful disposition of human remains for a limited and reasonable time to address the excessive pandemic death toll that has resulted in health and safety concerns; and
25. 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
26. The New Mexico Department of Health and the New Mexico Governor may update restrictions as necessary to respond to the evolving circumstances of this outbreak, and the City may issue further or supplemental declarations of emergency in response to this rapidly developing local health emergency. If any of those restrictions or declarations include stricter measures than those contained herein, then the stricter measures shall control; and
27. To the extent that this Declaration is in conflict with earlier Declarations, this Declaration shall supersede the others; and
28. 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 life threatening.

**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 replace any prior inconsistent declaration(s) issued by this Office, and 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 27 DAY OF December, 2022.

  
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**TIMOTHY M. KELLER**  
**MAYOR OF ALBUQUERQUE**