

# City of Albuquerque

*Office of the Mayor Timothy M. Keller*

## **FIFTH DECLARATION OF LOCAL EMERGENCY TO 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, 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 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 13, 2020, Governor Michelle Lujan Grisham held a press conference indicating that the New Mexico Department of Health would be issuing a new public health order, to go into effect on May 16, 2020, allowing all small retail businesses to operate at 25% capacity and allowing places of worship to operate at 10% capacity only for services in which drive-in services are not an option, such as confession and counseling, in certain counties, including Bernalillo County, and requiring all New Mexicans to wear face coverings in public; and

**WHEREAS**, some individuals who have contracted the virus show no symptoms, and in a short period of time, COVID-19 has rapidly and 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**, while government entities have previously taken strong action and Albuquerque residents have embraced social distancing practices and aggressive hygienic precautions to protect others and themselves, the City must now extend the duration of existing emergency measures to further limit the spread of COVID-19; 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 Executive Order 2020-004 and closing of New Mexico public schools of COVID-19 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-19 and order that:

1. Pursuant to the New Mexico Department of Health's series of statewide health orders limiting gatherings and § 2-9-1-4(C) of the Civil Emergency Powers Ordinance, all places of mass assembly, including but not limited to performance and athletic venues, are to remain closed for the duration of this Order; and
2. 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
3. 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

4. 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, 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
5. 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
6. 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
7. 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
8. 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 shall go 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 small and medium 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 wear facial masks or facial coverings, and provide facial masks or facial coverings to employees;
- 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, 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,

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 conditions, at which time the occupancy shall be limited to no more than fifteen percent (15%) of the store's maximum occupancy.
- b. All individuals shopping at a general retail business shall, to the best of their ability:
- i. Buy only the essential items they need for their households and not buy excess items or overstock on supplies;
  - ii. Use sanitizing wipes or materials, as available, to wipe down shopping carts on arrival at and departure from the store;
  - iii. Limit trips to the store, and limit the number of shoppers to one person per household whenever feasible; and
  - iv. Wash hands before leaving home and after returning home from shopping and sanitize their hands as soon as possible after leaving the store.
- c. For the purposes of this section, a "general retail business" is defined as "an establishment providing for the retail sale of general merchandise or food to the general public for direct use and not for wholesale; including but not limited to sale of general merchandise, clothing and other apparel, flowers and household plants that are not grown on-site, dry goods, convenience and specialty foods, hardware and similar consumer goods," consistent with the City of Albuquerque Integrated Development Ordinance, Part 14-16-7-1, and shall include grocery stores, building and home improvement materials stores, liquor stores, and adult material and entertainment stores. General retail businesses do not include entertainment venues such as movie theaters, concert halls or amusement parks.
- i. A small general retail business is a general retail business with no more than 10,000 square feet of gross floor area.
  - ii. A medium general retail business is a general retail business of more than 10,000 square feet of gross floor area and no more than 50,000 square feet of gross floor area.
  - iii. A large general retail business is a general retail business of more than 50,000 square feet of gross floor area.

However, if the definition imposed by the State of New Mexico's Emergency Executive Orders or Emergency Public Health Orders is more stringent than the City's definition, the State's determination shall apply.

- d. The City shall not enforce its Clean and Green Ordinance, §§ 13-17-1 *et seq.*, in particular the use of single-use plastic bags, for the duration of this Order.
  - e. All general retail businesses are encouraged, to the extent possible, to establish and implement protocols for contactless pickup and delivery.
9. 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
  10. 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
  11. 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
  12. 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
  13. Pursuant to the need to protect the health of all occupants of a City bus, van or other public transit vehicle and the New Mexico Department of Health's public health order that shall go into effect on May 16, 2020, every occupant of a City public transit vehicle, except those who pursuant to CDC guidelines cannot wear facial coverings safely such as children under the age of 2, is required to wear a facial covering or medically approved face mask at all times when traveling in a City public transit vehicle beginning May 16, 2020 as required by the State of New Mexico. Members of the public riding in City vehicles are



highly encouraged and strongly advised to do so before the new public health order goes into effect, and those who cannot safely wear face coverings are highly encouraged and strongly advised to stay at home; and

14. 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 order that shall go into effect on May 16, 2020, 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, with the exception of exercising by oneself. Albuquerque residents are highly encouraged and strongly advised to do so before the new public health order goes into effect and to do so while exercising outdoors, and those who cannot safely wear face coverings are highly encouraged and strongly advised to stay at home; and
15. Pursuant to the scientific evidence that social distancing is the most effective tool to limit the spread of COVID-19, while this declaration and the New Mexico Department of Health's public health order that shall go into effect on May 16 do allow more businesses and locations to open and operate at a reduced capacity, 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
16. 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
17. 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


18. 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 all orders contained within and any person who does not comply with this order may be subject to civil penalties; and
19. 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
20. 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 measures; and
21. To the extent that this Order is in conflict with earlier Orders, this Order shall supersede the others;
22. 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 14th DAY OF MAY, 2020.**

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