



City of Albuquerque

Office of the Mayor Timothy M. Keller

FOURTH 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 18, 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 my first Emergency 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;

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, further banning 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 all 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, some individuals who have contracted the virus show no symptoms, and in a short period of time, COVID-19 has rapidly 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 more 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 Declaration is to stop the spread of COVID-19 and decrease the ongoing damage to public health, while enabling the continuation of only the most essential services, and essential 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 public schools has yet to be determined; 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:

1. Pursuant to the New Mexico Department of Health's series of statewide health orders progressively 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, the following requirements shall apply to grocery stores, their employees, and all individuals shopping at grocery stores within the City of Albuquerque for the duration of this Order:
 - a. All grocery stores and supermarkets 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. To the degree they are available, provide facial masks or facial coverings to employees;
 - vi. Disinfect shopping carts 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. 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. Mark off six (6) foot spacing where lines occur inside and outside the store; and
 - xvi. 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 grocery store 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 "grocery store" or "supermarket" is defined as "an establishment that sells a wide variety of goods organized in departments, including but not limited to fresh produce, meat and dairy, canned and packaged food items, small household goods, and similar items, with more than 50 percent of the gross floor area devoted to the sale of food products for home preparation and consumption" consistent with the City of Albuquerque Integrated Development Ordinance, Part 14-16-7-1. However, if the definition imposed by the State of New

Mexico 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.
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, requiring 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, including, but not limited to, personal protective equipment (PPE). 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 progressively narrowing the definition of essential businesses, the City of Albuquerque will not issue permits to, or upgrade permits for, any business asserting that they have converted into essential businesses for the duration of this Order; and
12. Pursuant to the New Mexico Department of Health's series of statewide health orders progressively narrowing 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
13. 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
14. Pursuant to § 2-9-1-5 and § 2-9-1-7 of the Civil Emergency Powers Ordinance, the Albuquerque Police Department, the Code Enforcement Division of the Planning Department, the Environmental Health Department, and the Fire Marshal's Office of

Albuquerque Fire Rescue may enforce this Declaration and all Orders contained within, and any person who does not comply with any such Order may be subject to civil penalties; and

15. 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
16. 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
17. To the extent that any Order within this Declaration is in conflict with earlier Orders, the Orders herein shall supersede the others; and
18. I authorize and direct the Chief Administrative Officer to take all actions with respect to City staff as may be necessary to carry out the mission of the city government in emergencies; and
19. As Mayor, I further reserve all other authority and powers conferred by the Revised Ordinances of Albuquerque and New Mexico state law to respond 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 ___ DAY OF _____, 2020.

TIMOTHY M. KELLER
MAYOR OF ALBUQUERQUE