



MAYOR REGINA ROMERO
CITY OF TUCSON

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CITY OF TUCSON, ARIZONA
PROCLAMATION OF THE MAYOR
DECLARING A CONTINUING EMERGENCY OR LOCAL EMERGENCY
RELATED TO COVID-19
AND ISSUING ADVISORIES AND ORDERS
NECESSARY FOR PUBLIC SAFETY
AND TO MITIGATE THE SPREAD OF COVID-19

RECITALS:

WHEREAS, the Tucson Charter, Chapter VI, Section 5 empowers the Mayor of the City of Tucson, Arizona to govern the City by proclamation during times of great danger; and

WHEREAS, A.R.S. § 26-311(A) provides that in addition to the powers granted by the Tucson Charter or other provisions of law, the Mayor may by proclamation declare an emergency or local emergency to exist due to any natural or man-made calamity or disaster, or by reason of threats or occurrences of riots, routs, affrays, or other acts of civil disobedience which endanger life or property within the City; and

WHEREAS, A.R.S. § 26-311(B) provides that if an emergency is declared by the Mayor as described above, the Mayor shall govern by proclamation during that emergency and shall have the authority to impose all necessary regulations to preserve the peace and order of the City, including but not limited to:

1. Imposition of curfews in all or portions of the City;
2. Ordering the closing of any business;
3. Closing to public access any public building, street, or other public place;

4. Calling upon regular or auxiliary law enforcement agencies and organizations within or without the City for assistance;
5. Notifying the constitutional officers that the office for which they are responsible may remain open or may close during the emergency; and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services declared a Public Health Emergency related to the COVID-19 outbreak; and

WHEREAS, on March 11, 2020 the World Health Organization declared the spread of COVID-19 to constitute a pandemic;

WHEREAS, on March 11, 2020, the Governor of the State of Arizona, Douglas A. Ducey, declared that a State of Emergency existed in Arizona, declared that “it is necessary and appropriate to take action to ensure the spread of COVID-19 is controlled and that the residents of Arizona remain safe and healthy,” and authorized the Director of the Arizona Department of Health Services to coordinate all matters pertaining to the emergency response of the State; but did not on that date order or direct the closing of schools in Arizona, or the closing or limitation of operations of any businesses in the State; and

WHEREAS, within his March 11 Declaration, Governor Ducey declared that: COVID-19 was at that time a global pandemic; that COVID-19 posed a serious public health threat for infectious disease spread to Arizona residents and visitors; that there was at that time already evidence of community spread in Arizona, and there was reasonable cause to believe that the spread of COVID-19 could lead to severe respiratory illness, disease complications, and death for Arizona residents, particularly those with underlying medical conditions and the elderly; and that the COVID-19 pandemic posed a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability; and

WHEREAS, in the same March 11 Declaration, Governor Ducey recognized that public health professionals had identified precautions and interventions that could and can mitigate the spread of COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States of America, Donald J. Trump, found and proclaimed that the COVID-19 outbreak in the United States is a national emergency; and

WHEREAS, on March 15, 2020, Governor Ducey announced the temporary closure of all schools in Arizona due to COVID-19; and

WHEREAS, on March 16, 2020, President Trump's White House and the Center for Disease Control and Prevention (CDC) issued their "Coronavirus Guidelines for America: 15 Days to Slow the Spread" which included guidance to avoid social gatherings of more than 10 people; avoid eating or drinking at bars or restaurants; avoid discretionary travel and social visits; and listen to and follow the directions of state and local authorities; and further advised states (Arizona) with evidence of community transmission to close bars, restaurants, food courts, gyms, and other indoor and outdoor venues where groups of people congregate; and

WHEREAS, on March 16 and March 17, 2020, the Mayors of various Arizona cities and towns issued proclamations declaring an emergency or local emergency in connection with the COVID-19 outbreak, and in some instances ordered the closure or restriction of the businesses and establishments (e.g. bars, restaurants, food courts, gyms, and other indoor and outdoor venues where groups of people congregate) that were identified by the White House and CDC in their recommendations, even though at that time Governor Ducey had not yet used his emergency powers to order similar measures state-wide; and

WHEREAS, on March 17, 2020, Governor Ducey and the Arizona Department of Health Services released guidance concerning the actions needed and recommended to reduce and mitigate the spread of COVID-19, which included the closure or restriction of operation of bars, restaurants, gyms, and other places of public gathering; but despite releasing this guidance, Governor Ducey did not issue an Executive Order directing those actions to occur; and

WHEREAS, on March 17, 2020 the undersigned, the Mayor of the City of Tucson, Arizona, determined that an emergency or local emergency then existed within the City limits of the City of Tucson due to COVID-19; and further determined that emergency management measures were required to reduce the severity of the local emergency and mitigate the spread of COVID-19 and protect the health, safety and welfare of the people located in the City of Tucson; and

WHEREAS, as part of her March 17, 2020 Proclamation, the undersigned Mayor of the City of Tucson not only declared that an emergency or local emergency existed due to the COVID-19 outbreak, but also ordered that the actions recommended by the Governor and Arizona Department of Health Services, as well as the White House and CDC, be implemented within the City of Tucson; and

WHEREAS, two days later, on or about March 19, 2020, Governor Ducey issued Executive Order No. 2020-09, finding that “the time has come for further measures to protect public health and safety, protect our most vulnerable citizens, and mitigate the strain on our health care providers by slowing the spread of COVID-19” and ordering the closure or limitation of operation, within Arizona counties with confirmed COVID-19 cases, of the same types of businesses and establishments that were already the subject of the earlier City proclamations (e.g. bars, theaters, gyms, and restaurants); and

WHEREAS, since the time of Governor Ducey’s March 19 Executive Order, the number of confirmed COVID-19 cases in Arizona has risen from 44 to 665 (with 13 deaths), and the number of confirmed cases in Pima County has risen from 7 to 102 (with 2 deaths), and the level of community spread in Pima County and in Arizona is newly classified as “widespread;” and

WHEREAS, at the time of this Proclamation by the undersigned Mayor of the City of Tucson, not fewer than 217 million people in at least 23 states, 84 counties and 17 cities are subject to “Stay at Home” or “Shelter in Place” emergency orders that direct the closure of non-

essential businesses and services, including Arizona's adjacent states of California, Colorado, and New Mexico. These orders generally prohibit residents from travelling from home for any purpose other than to provide or receive essential services; and

WHEREAS, on or about March 23, 2020, Governor Ducey issued Executive Order No. 2020-12, which on its face prohibits any county, city or town in Arizona from issuing any order, rule or regulation that restricts or prohibits any person from performing any function designated by the Governor as an "essential function" during the COVID-19 emergency; and which on its face requires any city, county or town to coordinate with the Arizona Department of Health Services prior to issuing any order restricting persons from leaving their home due to the COVID-19 emergency; and

WHEREAS, within his Executive Order 2020-12, Governor Ducey defined "essential functions" and included within those "essential functions" businesses or establishments that included not only those that other states had recognized as promoting public health and safety (such as public safety responders and workers who provide critical infrastructure), but also included businesses such as "personal hygiene services" (which the Governor's office has indicated is intended to include services such as salons and barbers) and other functions that do not support critical infrastructure and that in some situations involve human interactions that directly conflict with guidance relating to "social distancing;" and

WHEREAS, on March 24, 2020, the Mayor and Council of the City of Tucson, by unanimous vote: (1) confirmed their endorsement of the Mayor's March 17 declaration of a local emergency, (2) declared that the COVID-19 outbreak constitutes a continuing local emergency that endangers life and property within the City of Tucson, and requires extraordinary measures to protect public health and safety; (3) approved the Mayor's ongoing use of her emergency powers under Arizona law; (4) urged Governor Ducey to take additional actions to protect the people of Arizona from the COVID-19 outbreak, including the immediate issuance of statewide "Shelter in Place" orders that direct the closure of non-essential functions and businesses, all with the goal of slowing the spread of COVID-19

while providing for the continuity of essential functions and operations throughout Arizona;
and

WHEREAS, the undersigned, the Mayor of the City of Tucson, Arizona, has determined that certain emergency actions are immediately required at the local level, due in part to the absence of emergency action by the Governor that does the following: (1) orders the closure of non-essential services throughout the state of Arizona; (2) defines “essential services” in a manner that reasonably limits those businesses and establishments that are excluded from the closure order to those that truly provide services and support for necessary services to the public during the time of this COVID-19 pandemic emergency; and (3) restricts persons from leaving their homes and shelter for non-essential travel during the COVID-19 emergency in order to mitigate the spread of this disease and ease the burden on our hospitals and other health care facilities, and especially to prevent those health care facilities from becoming overwhelmed, as is currently happening in states with belatedly-adopted “shelter in place” or “stay at home” orders:

NOW, THEREFORE, IT IS PROCLAIMED AND ORDERED, EFFECTIVE IMMEDIATELY, AS FOLLOWS:

SECTION 1. I, REGINA ROMERO, Mayor of the City of Tucson, Arizona, do hereby declare, pursuant to A.R.S. § 26-311, Chapter VI, Section 5 of the Tucson Charter, and Tucson Code Section 11-101, that an emergency, civil emergency and/or local emergency now exists and/or continues to exist in connection with the COVID-19 outbreak, as further described in the preceding Recitals, which are incorporated herein by this reference.

SECTION 2. Effective March 28, 2020 at 8:00 a.m., the Orders included and articulated in Section 2 of the March 17, 2020 Proclamation of the Mayor are hereby terminated, and the Orders and Advisories contained within Section 3 of this Proclamation, dated this 27th day of March, 2020, replace and supersede the Orders included and articulated in Section 2 of the March 17, 2020 Proclamation. The termination of the March 17, 2020 Orders has no effect on the continuing validity and enforceability of Governor

Ducey's Executive Order 2020-09, dated March 19, 2020, limiting the operations of certain businesses to slow the spread of COVID-19; and has no effect on Section 1 and Sections 4-10 of the March 17, 2020 Proclamation, except as those provisions might be modified herein by this Proclamation dated March 27, 2020.

SECTION 3. Orders and Advisories:

a) Executive Summary: Through this Proclamation, the Mayor of the City of Tucson:

1. Strongly advises all persons in Tucson to **STAY AT HOME** except as may be needed to address essential needs (like getting food and prescriptions, traveling to work if employed in an Essential Function, and getting some exercise and fresh air);
2. Orders all businesses and establishments that are not Essential Functions to close to the public;
3. Strongly advises that certain businesses and establishments that the Governor's Executive Order 2020-12 defines as "essential functions" also close to the public, because those businesses and functions are not in fact critical or essential during this pandemic emergency and involve human interactions that conflict with Social Distancing Requirements and CDC guidance on social distancing. Specifically, the following businesses are advised to close to the public: hair and nail salons, spas, barber shops, and other "personal hygiene services."
4. Strongly advises that all persons, at all times, practice and adhere to Social Distancing Requirements, even when engaged in Essential Functions; and encourages all businesses, including those providing Essential Functions, to allow their employees to work from home through telecommuting or other means to the greatest extent possible in order to limit the gathering of employees at the work site.

b) Summary and intent: The virus that causes Coronavirus 2019 disease ("COVID-19") is easily transmitted, especially in group settings, and it is essential that the spread

of the virus be slowed to protect the ability of public and private health care providers to handle the influx of new patients and to safeguard public health and safety. Because of the risk of the exponential spread of the virus, and the need to protect all members of the Tucson community and Pima County region, especially including our members most vulnerable to the virus, our first responders, and our health care providers, this Proclamation orders the closure to the public of all non-essential businesses and establishments and further advises all persons anywhere in Tucson to “shelter in place” – that is **STAY AT HOME** – except for the minimum amount of travel necessary to accomplish Essential Functions and to get some exercise and fresh air. **THESE ORDERS AND ADVISORIES BEGIN AT 8:00 A.M. ON THE 28TH DAY OF MARCH, 2020 AND WILL CONTINUE THROUGH AT LEAST 11:59 P.M. ON APRIL 17, 2020**, unless terminated earlier by the Mayor through a subsequent Proclamation, and are subject to the limited exceptions and under the terms and conditions more particularly set forth below.

The purpose of this Proclamation and its Orders and Advisories is to maximize the number of people staying at home, except for essential travel, and to prevent or limit public gatherings. This Proclamation and its Orders and Advisories supplements Governor Ducey’s Executive Order 2020-09, ordering the limitation of operations of certain businesses and establishments in Arizona (including but not limited to restaurants, bars, theaters, and gyms) to slow the spread of COVID-19. The intent of this Proclamation and its Orders and Advisories is to ensure that the maximum number of people self-isolate to the greatest extent feasible, while enabling Essential Functions and services to continue, in order to slow the spread of COVID-19. When people need to leave their homes or places of refuge, whether to obtain or perform Essential Functions and services, they **should at all times** comply with the Social Distancing Requirements as defined in Section 3(c) below.

c) **Definitions:** For the purposes of this Proclamation:

“Essential Functions” has the meaning as provided in Governor Ducey’s Executive Order 2020-12, dated March 23, 2020.

“Minimum Basic Operations” means: the minimum necessary activities to maintain the value of the business’ inventory, ensure security, process payroll and employee benefits, and related functions. It also includes the minimum necessary activities to facilitate employees of the business to continue to work remotely from their residences. To the extent possible, Minimum Basic Operations will be carried out to comply with Social Distancing Requirements.

“Social Distancing Requirements” includes: maintaining at least six-foot social distancing from other individuals, washing hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer; covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, and not shaking hands.

- d) All businesses and establishments within the City, except for Essential Functions, are hereby ordered to close to the public and cease all activities at facilities located within the City of Tucson except for Minimum Basic Operations, as defined in Section 3(c) above. For clarity, these businesses may continue operations consisting exclusively of employees or contractors performing activities at their own residence (i.e., working from home). Working from home through telecommuting or other remote technological means is encouraged. All Essential Function businesses and establishments are also encouraged to have their employees work from home through telecommuting or other remote technological means. To the greatest extent feasible, all persons within the City shall comply with Social Distancing Requirements, including—but not limited to—when any customers are standing in line in connection with Essential Functions.

- e) For clarity, the businesses and establishments that are ordered closed are all businesses and establishments that are not Essential Functions. The closure order applies to and includes, but is not limited to, all of the businesses and establishments described in Section 2(b) of the Mayor's March 17, 2020 Proclamation, as follows:
- i. Bars, taverns, brew pubs, breweries, microbreweries, distilleries, wineries, tasting rooms, special licensees, clubs, and other similar businesses and establishments offering alcoholic beverages or spirituous liquor for consumption on-premises.
 - ii. Theaters, cinemas, and indoor and outdoor performance venues.
 - iii. Museums.
 - iv. Gymnasiums, fitness centers, recreation centers, indoor sports facilities, indoor exercise facilities, exercise studios, yoga and barre studios, and other similar facilities.
 - v. Bingo halls, bowling alleys, indoor climbing or jumping/bouncing facilities, skating rinks, and other similar recreational or entertainment facilities.

In addition, the closure order in subsection 2(d) above also applies to and includes (and is not limited to) hookah lounges. However, the closure order does not prohibit a proprietor, employee, contractor, vendor, or supplier of a local business from entering, using or occupying that place of business in their professional capacity; and the closure order does not apply to any of the following:

- a. Grocery stores, markets, convenience stores, and other similar businesses and establishments that offer food and beverage that is not for on-premises consumption;
- b. Pharmacies and drug stores;
- c. Food banks and food pantries;
- d. Cafeterias, commissaries, and restaurants located within health care facilities, nursing homes, shelters, group homes, places of worship, or similar facilities;
- e. Cafeterias, commissaries, and restaurants located within or on the premises of institutions of higher learning;
- f. Vendors and concessionaires located within the Tucson International Airport;
- g. Banks and financial institutions;
- h. Any establishment that is an Essential Function as defined in Section 2(c) above.

- f) As noted in the Recitals above, within his Executive Order 2020-12, Governor Ducey defined “essential functions.” Governor Ducey’s definition of “essential functions” included not only those functions that other states have recognized as promoting public health and safety, but also included businesses such as “personal hygiene services” (which the Governor’s office has indicated is intended to include services such as salons and barbers) and other functions that do not support critical infrastructure, and which involve activity that conflicts with Social Distancing Requirements.

The Governor’s “essential functions” definition conflicts with or is in excess of those functions identified by Department of Homeland Security and the Cybersecurity & Infrastructure Security Agency (CISA) in their “Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response” dated March 19, 2020. The inclusion of functions such as “personal hygiene service” also conflicts with guidance promulgated by the CDC and others relating to “social distancing” and the Social Distancing Requirements described in this Proclamation. “Personal Hygiene Services” as broadly defined should not be included within any reasonable definition of Essential Functions and should not continue to operate during the effective time period of the Orders included in this Section of the Proclamation. Accordingly, as part of this Proclamation, I strongly advise that the following activities should not be treated as Essential Functions, but should instead be subject to the actions described in Section 3(d) above and should be closed to the public: hair and nail salons, spas, barber shops, and other “personal hygiene services.”

- g) The undersigned, Mayor of the City of Tucson, has determined that the Orders and Advisories within this Section 3 of this Proclamation are necessary to preserve the peace and order of the City of Tucson, and to protect life and/or property and to promote and preserve public safety and welfare, and in particular to mitigate the spread of COVID-19 and provide essential protections to Tucson residents, including

those who are most vulnerable to infection, while still preserving the availability of essential services.

- h) The undersigned Mayor of the City of Tucson also reserves the emergency authority and powers provided to her under the Tucson Charter and Arizona law, including but not limited to A.R.S. § 26-311, to revise, extend, modify or amend this Proclamation, and/or to issue and impose all necessary regulations to promote and protect the health and safety of Tucson's residents during this continuing emergency. These actions could include the issuance of additional Orders to protect public health and safety, particularly in the event that additional emergency measures are not imposed statewide to protect the health of all Arizona residents and slow the spread of COVID-19 before our public health systems and facilities are overwhelmed. The Mayor urges Governor Ducey to take additional actions immediately to protect the people of Arizona from the COVID-19 outbreak, including the immediate issuance of statewide "Shelter in Place" or "Stay at Home" orders that direct the closure of all non-essential functions and businesses, all with the goal of slowing the spread of COVID-19 while providing for the continuity of truly essential functions and operations throughout Arizona. The Governor's order should define "Essential Functions" as being limited to those that are truly critical and necessary to maintaining public health and safety and supporting critical public infrastructure.

Section 4. Pursuant to A.R.S. § 26-317, a person who violates any regulation or prohibition imposed under this Proclamation and/or under Chapter 26 of the Arizona Revised Statutes shall be guilty of a Class 1 misdemeanor. Any violation that is continuing in nature shall constitute a separate offense on each successive date the violation continues, unless otherwise provided.

Section 5. In addition to the provisions of Section 3 above, I continue to strongly urge the leaders of the City's houses of worship to limit gatherings on their premises and to observe Social Distancing Requirements for any such gatherings.


Section 6. In addition to the other provisions of this Proclamation, I order that the City Manager of the City of Tucson is authorized and directed to implement the provisions of this Proclamation and Declaration as otherwise provided under the powers as prescribed by federal, state and local law, and to take those measures that are necessary and appropriate to protect and promote public health and safety. Those measures include taking all actions reasonable and appropriate to limit face-to-face interactions between City staff and members of the public; limiting or prohibiting public access to public buildings and facilities, including prohibiting public access to service counters and lobbies within City buildings. Additionally, limitations on public attendance at Mayor and Council meetings or the meetings of other City of Tucson boards, committees and commissions shall remain in effect until the termination of this emergency in order to promote and protect public health and safety. The City Manager is authorized to implement adjustments to City of Tucson leave policies in order to comply with changes to federal law and federal guidelines, and to provide for the continuity of operations of the City of Tucson. The City Manager and the Director of Parks and Recreation are authorized to close park areas and/or park facilities, including but not limited to park ramadas, basketball and tennis courts, and playground structures and equipment; and to close or put restrictions on the use of the City's golf courses and facilities, all as may be needed or appropriate to prevent public gatherings and protect public health. Finally, the Manager is authorized and directed to take all reasonable measures to have the City's employees work remotely through telecommuting or other technological means.

Section 7. As provided in the March 17, 2020 Proclamation, the City of Tucson requests immediate assistance from other public agencies and jurisdictions, to include any federal or state funding that might be made available in connection with the COVID-19 response.

Section 8. The Orders and Advisories included in Section 3 and the other provisions of this Proclamation are effective beginning at 8:00 a.m. on March 28, 2020; and shall remain in effect until at least 11:59 p.m. on April 17, 2020; or until such time that the Mayor terminates or modifies them or issues a proclamation determining that an emergency no

longer exists, whichever occurs first. The Mayor will review the provisions of this Proclamation daily as the COVID-19 emergency evolves, and may revise, extend, modify or amend this Proclamation, and/or issue and impose all necessary regulations as authorized under Arizona law to promote and protect the health and safety of Tucson's residents.

PROCLAIMED at 5:45 a.m. (p.m.) this 27 day of March, 2020.
at 5:45 o'clock p m.




REGINA ROMERO
Mayor of the City of Tucson

Attest:



ROGER W. RANDOLPH
City Clerk

Approved as to form:



Mike Rankin
City Attorney