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RESOLUTION NO. 20 - 179

BOARD OF COUNTY COMMISSIONERS  
COUNTY OF EL PASO, STATE OF COLORADO

**RESOLUTION ADOPTING AN ALTERNATIVE SUPPRESSION PLAN IN SUPPORT  
OF A VARIANCE REQUEST UNDER CDPHE PUBLIC HEALTH ORDER 20-28 FOR  
A LIMITED REOPENING OF IN-PERSON DINING AT RESTAURANTS**

WHEREAS, on March 14, 2020 El Paso County declared a Local Disaster Emergency due to the public health threat posed by presence of the COVID-19 virus; and

WHEREAS, on March 25, 2020 the Colorado Department of Public Health and Environment ("CDPHE") issued Public Health Order 20-24 Stay at Home Requirements ("PHO 20-24"), which imposed strict limitations on individuals and businesses to slow the community spread of COVID-19 and prevent the state's healthcare system from becoming overwhelmed; and

WHEREAS, in response to the positive effect that compliance with PHO 20-24 had on the rate of disease spread in Colorado, on April 26, 2020 Colorado Governor Jared Polis issued Executive Order D 2020 044 ("Executive Order") containing a number of directives in support of Colorado's less restrictive Safer at Home response to the COVID-19 pandemic; and

WHEREAS, on April 27, 2020 CDPHE issued Public Health Order 20-28 Safer at Home ("PHO 20-28"), which implements recommendations and requirements permitting a limited reopening of some businesses but still limits restaurants to take-out, delivery, and curbside pickup service; and

WHEREAS, PHO 20-28 also provides a process through which a county may request a variance from its provisions and those of the Executive Order, provided that several criteria are met; and

WHEREAS, variance requests must be endorsed by the local public health agency, adopted by the local county government, and accompanied by verification from all local hospitals that they have the capacity to serve all people needing their care; and

WHEREAS, El Paso County Public Health ("Public Health") has collaborated with the Pikes Peak Chapter of the Colorado Restaurant Association and the Colorado Springs Chamber of Commerce and Economic Development Corporation to develop appropriate social distancing and disease mitigation requirements that would allow restaurants to provide in-person dining in a limited capacity; and

WHEREAS, the Board of County Commissioners of El Paso County, Colorado ("Board") supports the reopening of restaurants in a responsible manner so that this industry can work toward recovering from the economic impacts of the COVID-19 pandemic; and

WHEREAS, El Paso County Public Health ("Public Health") has drafted an alternative plan containing both social distancing and disease mitigations requirements for restaurants who wish to reopen in-person dining and a disease response plan that will guide how Public Health will detect new cases, contain outbreaks, and respond to data that indicates that local healthcare infrastructure may be threatened, a copy of which is attached hereto as Exhibit A; and

WHEREAS, pursuant to PHO 20-28 Appendix G, a variance request must be predicated upon an affirmative vote of the Board to adopt an alternative plan in place of the provisions of the Executive Order and PHO 20-28; and

WHEREAS, based upon the testimony and evidence presented at a public hearing, the Board is satisfied that the alternative plan for a limited reopening of in-person dining at restaurants will sufficiently protect the health of employees, customers, and the community; and

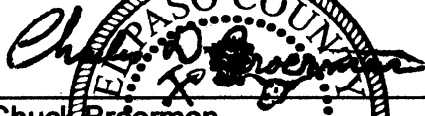
WHEREAS, the Board is also satisfied that current conditions and circumstances in El Paso County, including the rate of spread for COVID-19, the availability of testing, and the capacity of the local healthcare system warrant the submission of a variance request to CDPHE.

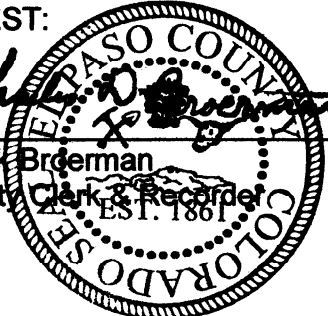
NOW, THEREFORE, BE IT RESOLVED that, pursuant to the provisions of CDPHE PHO 20-28, the Board of County Commissioners of El Paso County, Colorado hereby adopts the alternative plan for a limited reopening of in-person dining at restaurants attached hereto as Exhibit A. This approval extends to any amendments to the alternative plan that may requested by local hospitals, without requiring further action by the Board.

BE IT FURTHER RESOLVED that the Board directs appropriate County staff to work with El Paso County Public Health and local hospitals in the preparation and submission of a variance request to CDPHE for a limited reopening of in-person dining at restaurants.

DONE THIS 14<sup>th</sup> day of May, 2020 at Colorado Springs, Colorado.

ATTEST:

  
\_\_\_\_\_  
Chuck Brgerman  
County Clerk & Recorder



BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

By:   
\_\_\_\_\_  
Mark Waller, Chair

**EL PASO COUNTY ALTERNATIVE SUPPRESSION PLAN FOR  
LIMITED DINING IN RESTAURANTS, FOOD COURTS, CAFES, COFFEEHOUSES, AND OTHER  
SIMILAR PLACES OF PUBLIC ACCOMODATION OFFERING FOOD OR BEVERAGE FOR ON-  
PREMISES CONSUMPTION**

***PART I – REQUIREMENTS FOR BUSINESS OPERATIONS***

In addition to the requirements set forth in Section II.I. of CDPHE Amended Public Health 20-28, restaurants wishing to offer on-premises consumption of food or beverage shall comply with the following requirements.

**1. Seating capacity**

- a. All seating shall be structured so as to ensure a minimum of 6 feet between occupied seats at different tables.
- b. Total occupancy of customers both inside and outside the facility shall be limited to the lowest of the following measurements:
  - i. Total maximum of 50 customers; OR
  - ii. Customer occupancy that ensures a minimum of 6 feet between seats at different tables; OR
  - iii. 30% fire occupancy load Monday-Thursday or 50% fire occupancy load Friday-Sunday.

If a facility feels it can safely exceed the above limits, it may submit a proposed plan to El Paso County Public Health (Public Health) for review and approval that explains how seating areas will be properly social distanced and broken into fully separated seating areas.

- c. No new outdoor seating areas other than those in previously approved through the licensing process may be created.
- d. Groups seated together shall be limited to 10 people and must be from same household or consistent social group.

**2. Seating processes**

- a. Facilities are required to take reservations, either by phone or electronically.
- b. Walk-in reservations may also be accepted. The use of pagers or phone calls to advise of table availability is required, as congregating in waiting areas or outside of the doors such that 6-foot separation between groups cannot be maintained is prohibited. If pagers are used, they must be cleaned and disinfected after each use.
- c. Restaurants are encouraged to record and maintain the following information for each table seated for twenty-one (21) days:
  - i. Name and phone number of one adult in the party
  - ii. Table assignment
  - iii. Seating and departure times

If maintained, such information shall be provided to Public Health upon request.

- d. Seating at bar areas is not permitted unless a minimum of 6-foot distancing between staff and customers can be maintained.

**3. Common-use items and areas**

- a. Multiple-use condiment containers are prohibited. Only single-use items may be provided. Linens may be used for a tablecloth and napkins so long as they are replaced between customers with a properly laundered set.
- b. Menus should be single use, posted on menu boards, or otherwise displayed in such a way that customers cannot touch them.
- c. Do not pre-set tables.
- d. Buffets may not be self-serve by customers; only plated or carry-out/delivery meals provided to customers by staff are allowed. Buffets must be at least six (6) feet from any dining tables.
- e. Preparing food at tableside is not allowed (ex: tableside guacamole, slicing/portioning meat on skewers).
- f. Conduct a menu review and consider reducing the number of or modifying menu items to ensure proper safety of employees and customers.
- g. Tabletops and non-porous chair surfaces shall be cleaned and disinfected between customer seating.
- h. Doorknobs, counter tops, bathrooms, handles, railings, and other high-touch areas shall be cleaned and disinfected every 2 hours.
- i. Social distancing must be maintained in bathrooms.

**4. Masks**

- a. Employees who routinely or consistently come within six (6) feet of other employees or customers must wear a cloth face covering over their noses and mouths, unless doing so would inhibit the employee's health.
- b. Facilities must make every effort to provide employees with cloth face coverings.
- c. Cloth face coverings should fit snugly but comfortably against the side of the face, include multiple layers of fabric, allow for breathing without restriction, and be able to be laundered and machine-dried without damage or change to shape.
- d. Employees who prepare or handle food that will be made available to the public for purchase must wear a face covering while performing tasks involving food preparation and handling. Notwithstanding the foregoing, employees for whom wearing a face covering presents a particular danger, such as but not limited to fry cooks or cooks using a grill, are not required to wear a face covering while performing such tasks.

**5. If a facility as a whole has been closed or particular areas or equipment have not operated for an extended period, the following must be completed before reopening:**

- a. Flush water and soda lines for at least 5 minutes.
- b. Go through all food storage areas and discard any items that are expired.
- c. Deep clean and disinfect the facility.
- d. Contact food distributors to ensure availability of critical items to include hand sanitizer, cleaning, and disinfection supplies.

**6. If two or more probable or confirmed COVID-19 cases are associated with the facility in a 14-day period, the facility shall, at Public Health's request, close long enough to work with Public Health on determining risk and appropriate steps towards reopening. These steps may include:**

- a. Conducting a suspect outbreak investigation using records of patrons and table assignments.
  - b. Implementing enhanced cleaning and disinfection.
  - c. Review of the above protocols by Environmental Health for compliance.
7. If a restaurant has significant concerns regarding a patron exhibiting symptoms consistent with COVID-19 infection, it is encouraged to ask the individual and/or party to leave the premises.

The underlying principle of following risk of spread of COVID-19 is viral exposure over period of time. Social distancing rules are really designed to protect individuals from brief or outdoor exposures. The intent of any protective measure is to not allow time or contact to achieve an infectious viral load. Public Health must continue to assess the environment and make judgments from noting how many people are present, how much airflow is present and the length of time an individual spends in that environment. With this in mind, the requirements set forth above may require revision as we learn more from ongoing data produced by changes in restrictions. Allowing people to congregate in a closed space over time carries inherent risk that must be acknowledged by those choosing to participate despite the protection inferred from the preventive measures above.

## ***PART II – COUNTY DISEASE RESPONSE***

### **Long-term Containment Measures**

El Paso County has developed a robust system for disease containment over the past three months, beginning with the implementation of CDPHE guidance regarding those traveling to Colorado from overseas in February, to continuing our collaboration with community partners to ensure that testing capacity, epidemiological response, PPE resources, and healthcare infrastructure remain stable and sufficient to meet community need far into the future. Critical elements of El Paso County's disease response include the following.

#### **1) EL PASO COUNTY PUBLIC HEALTH AND THE PIKES PEAK REGIONAL OFFICE OF EMERGENCY MANAGEMENT HAVE ESTABLISHED A JOINT INCIDENT COMMAND (JIC) STRUCTURE:**

- This JIC structure is able to address ongoing needs for resources, advocacy and communication. El Paso County recognizes that it is impacted not only by local conditions, but by the pressures applied on our resources by state and national cases and our partners functioning as systems across county lines as well.
- The JIC enables routine communication with local hospital partners, first responders (fire, police, sheriff), primary care practices, long term care facilities (SNIF, memory care, assisted living), and other congregate living situations (homeless shelters, jails, detention centers). These partner agencies have committed to reporting out testing, PPE and staffing resources and any concerns for shortfalls, and Public Health receives daily reports from local hospitals on bed availability, ICU capacity and ventilators.
- The JIC has also created educational resources to address preventive measures and practice alternatives that implement appropriate infectious disease principles across agencies. To expand this to our general community, the JIC has a robust and well-planned Public Information Strategy that includes rapid communication with the press, routine community round tables, regular reports to the Board of County Commissioners and the Colorado Springs City Council, and use of social media, video clips and editorials.
- In addition to the web of community connections facilitated by the JIC, Public Health regularly engages in a Regional Recovery Council with the Colorado Springs Chamber of Commerce and meets with other organizations such as the Pikes Peak Chapter of the Colorado Restaurant Association, local religious leaders, the Board of County Commissioners, the Colorado Springs Mayor and City Council, retail establishments, and art sectors to discuss physical distancing, sanitation, respiratory and hand hygiene, and signage guidelines.

#### **2) OUTBREAK RISKS IN HIGH VULNERABILITY SETTINGS ARE MINIMIZED:**

- Public Health participates in a community collaboration that developed and maintains a Homeless Isolation Shelter. Ongoing screening, testing, transportation, and housing services are provided.

- Public Health leads a Long-Term Care Steering Committee to address policies and procedures, testing, and resources in long-term care facilities, recognizing the varied challenges between Skilled Nursing, Memory Care, and Assisted Living.
- Emergency medical response and transport protocol updates have been created by our Emergency Services Medical Director Group to protect our community and first responders while also addressing needs for triage, appropriate PPE, care at home and transport needs.
- Telehealth resources have been expanded in many venues, from primary care and specialists, to behavioral health and resources available in the pre-hospital setting.
- Public Health and the El Paso County Sheriff, in collaboration with the medical provider for the Criminal Justice Center, review protocols, testing, and other resources for the Criminal Justice Center to assure best practices for all jail staff and inmates.
- Public Health has a team that works with childcare facilities on guidance and recommendations related to COVID-19.
- Public Health maintains specific teams for COVID-19 outbreak response in LTCFs and childcare facilities. The regular epidemiology team responds to outbreaks in other settings.

### **3) PUBLIC HEALTH MAINTAINS A COMPREHENSIVE SYSTEM FOR THE DETECTION AND CONTAINMENT OF NEW CASES:**

Four foundational aspects support Public Health's ability to detect new cases and contain outbreaks (including how to distinguish those traceable to restaurants from those traceable to businesses open under PHO 20-28).

- Testing Capacity.** Public Health and partners throughout EPC have increased the availability of local testing. The gold standard proposed by Harvard demonstrates a goal of 152 tests/day/100,000 population. For El Paso County, this equates to about 1,140 tests/day. Our present capacity approaches or exceeds 1,100 tests/day. Community partners have provided information describing an increased ability to run tests with appropriate machines and reagent supplies, sustainable supplies of swabs and transfer media, and sufficient staff and PPE to protect the staff gathering the swabs. Test results are currently available within a 24- to 48-hour window. Public Health maintains consistent communication with healthcare partners to assure that these resources are sustainable day by day.
- Epidemiologic Investigation.** Public Health is following not only the incidence of COVID-19 cases in El Paso County, but it also tracks the median number of contacts per case identified. By following these various factors Public Health can anticipate the capacity of each investigator based on the changing dynamics of the incidence of infection, social connectedness and increasing diversity of contacts, thereby creating a network for potential spread. Our capacity has been increased from a baseline team of 8 to a total of 15 Public Health staff. Additional capacity is available as needed from other county departments (such as Coroner death investigators), UCCS nursing students, and volunteers. Public Health continues to explore opportunities for training additional staff

in line with increasing needs and has a commitment from County Commissioners to fill this gap if and as it develops.

- c. **Facility Outbreak.** Through epidemiologic investigation, Public Health will identify any restaurant with which two or more probable or confirmed COVID-19 cases are associated. The facility will be requested to close long enough to work with Public Health on determining risk and appropriate steps towards reopening.
- d. **Quarantine and Isolation.** With widespread testing and epidemiologic investigation, Public Health is able to identify cases and contacts quickly for targeted isolation and quarantine. Best practices for monitoring of individuals in quarantine and isolation vary according to the degree of restrictions maintained in the general community. Public Health will review and apply best practices for monitoring on an ongoing basis.

#### **Conditions and Standards Used to Determine if the Variance Provides Protection Equal to PHO 20-28**

The Public Health Communicable Disease Program and Office of Data and Analytics (together, the CD/Data team) will actively monitor the thresholds and data under which variances have been approved. A member of the CD/Data team will review at least weekly whether the identified data and thresholds support an ongoing determination that the variance provides protection equal to PHO 20-28.

- 1) **Threshold for increased % positive test results:** El Paso County has been holding steady at a ~5-6% positivity test rate since implementing testing of all symptomatic community members who present for testing. A positivity test rate exceeding 8% will be considered grounds for review of this variance and potential alterations.
- 2) **El Paso County has seen a steady decrease in the numbers of hospitalized patients.** We suggest that this measure be reviewed by our hospital partners, as they have the expertise on their patient population and capacity to treat COVID-19 patients and non-COVID-19 baseline populations, and particularly because all three hospitals act as referral destinations for counties outside our own and operate within systems that serve the state of Colorado.
- 3.) **Threshold for contact tracing:** The complexity of each case investigation and contact tracing efforts are based on the social network and public exposure of each infectious case. High numbers of contacts are also an early indicator of exponential case increases. A median of 11 contacts per confirmed case will be considered as a threshold for review of this variance.
- 4) **Adequacy metrics for PPE supply for all health care needs should be addressed in the hospital letters of support.**
- 5) **Threshold for outbreaks:** Outbreaks may be an indicator that infection control measures are not applied consistently to provide adequate protection against disease transmission. Public Health may review this variance if multiple outbreaks occur.