



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 29, 2020

The Honorable Ricardo Samaniego
County Judge
El Paso County
500 E. San Antonio, Ste. 301
El Paso, Texas 79901

Dear Judge Samaniego:

It has come to our attention that El Paso County has issued local public health orders that exceed the county's lawful authority and are likely to confuse residents. This letter identifies some of the concerns with your recent orders. We trust you will act quickly to correct mistakes like these to avoid future confusion and litigation challenging the county's unlawful restrictions.

Tonight you announced a two-week shutdown, effectively immediately, of all businesses and activities deemed non-essential.¹ Additionally, this order requires citizens to shelter in place, bans all public or private gatherings of any number of people occurring outside a single household, and prohibits all non-essential travel.

As you know, Governor Abbott has issued executive orders, pursuant to his authority under the Texas Disaster Act, concerning the statewide response to the coronavirus epidemic.² Governor Abbott's most recent order governing reopening of Texas, Executive Order GA-32 (GA-23) explicitly preempts all contradictory local orders.³ Insofar as your local order conflicts with GA-32 by restricting essential or reopened services, it is invalid and unenforceable.

Additionally, this order bans all "travel on foot, bicycle, scooter, motorcycle, automobile, or public transit" except for essential travel or travel relating to working at an approved essential business.⁴ Such a ban of the movement of people creates confusion for your constituents and a potentially dangerous situation for law

¹ El Paso County Order No. 13 (October 29, 2020), available at: <https://www.epcounty.com/documents/Order-No-13.pdf>.

² See Tex. Gov't Code § 418.012.

³ Exec. Order GA-32 at 5 (October 7, 2020).

⁴ El Paso County Order No. 13 at 6.

enforcement. A local order that limits the movement of people conflicts with GA-32. Accordingly, GA-32 preempts this local order, rendering it unenforceable.

Finally, the plain language of GA-32 only requires Texans to minimize social gatherings and in-person contact with people who do not live in the same household.⁵ The Governor's order does not include a mandatory "shelter-in-place" order.⁶ But your order does. The order requires all residents to shelter-in-place, closes all businesses that are non-essential or not reopened services, and prohibits all gatherings except those permitted by the order. As we have explained, GA-32 supersedes conflicting local orders that restrict essential or reopened services. Your order conflicts with the Governor's order and as such, is unenforceable.

We trust you will amend your order to be consistent with the Governor's order.

Very truly yours,



KEN PAXTON
Attorney General of Texas

⁵ Exec. Order GA-32 at 4.

⁶ *Id.*