GOVERNOR DOUGLAS A. DUCEY

STATE OF ARIZONA

EXECUTIVE ORDER

Executive Order 2020-47

Reducing the Risk, Slowing the Spread
Limiting Indoor Dining

WHEREAS, on March 11, 2020, pursuant to A.R.S. §§ 26-303 and 36-787, I, as Governor of the State of Arizona, issued a declaration of a Public Health State of Emergency due to the necessity to prepare for, prevent, respond to, and mitigate the spread of COVID-19; and

WHEREAS, on March 30, 2020, the Director of the Arizona Department of Health Services (ADHS), based on an epidemiological assessment of Arizona specific data and in alignment with the Centers for Disease Control and Prevention (CDC) guidance, recommended the State implement enhanced mitigation strategies which are continuing; and

WHEREAS, on May 12, 2020, Executive Order 2020-36, *Stay Healthy, Return Smarter, Return Stronger,* was issued outlining requirements for businesses to assist in mitigating the spread of COVID-19 as they reopened and mandated that businesses adopt policies consistent with guidance from the CDC and the ADHS; and

WHEREAS, on June 17, 2020, in response to rising case numbers, Executive Order 2020-40, *Contain the Spread*, was issued employing the Arizona National Guard to assist with contact tracing and providing the ability for local jurisdictions to establish directives regarding face coverings in public places; and

WHEREAS, on June 29, 2020, due to rising numbers of cases, the Arizona Department of Health Services activated the State's Crisis Standards of Care at the request of healthcare administrators to prepare for and respond to the increasing number of COVID-19 cases in Arizona's hospital system; and

WHEREAS, there has not been sufficient time for mask mandates, limitations on groups and other measures to have a demonstrable effect on containing the spread, and additional measures are essential and necessary to ensure expedited and efficient containment; and

WHEREAS, recommendations in the Arizona State Report issued by the White House Coronavirus Task Force on July 5, 2020, for actions to be taken to limit the spread of COVID-19 include encouraging outdoor dining and limiting indoor dining to less than 50%; and

WHEREAS, as of July 9, 2020, there have been 112,671 diagnosed cases of COVID-19 in Arizona including 2,038 deaths, with the State continuing to see an increase in the number of cases in every county and an increase in hospitalizations in each region of the State; and

WHEREAS, the increased case numbers and hospitalizations also necessitate the need for an increased focus on precautionary measures by both businesses and individuals; and

WHEREAS, data has shown that community spread continues to grow at an exponential pace and is greatest among the demographic of 20-44 year olds; and

WHEREAS, essential medical and other health resources, including intensive care unit and in-patient facilities, are limited, nearing capacity, and otherwise being exhausted; and

WHEREAS, patients are required to be transferred to medical facilities throughout Arizona to accommodate the surge of COVID-19 cases; and

WHEREAS, pursuant to A.R.S. § 36-136(A)(6), the Director of the Department of Health Services has authority to "Exercise general supervision over all matters relating to sanitation and health throughout this state…[and] may enter, examine and survey any...public eating room and restaurant,...in which the director has reason to believe there exists a violation of any health law or rule of this state that the director has the duty to administer"; and

WHEREAS, pursuant to A.R.S. § 36-136(H), the Director of the Department of Health Services "may define and prescribe emergency measures for detecting, reporting, preventing and controlling communicable or infectious diseases or conditions if the director has reasonable cause to believe that a serious threat to public health and welfare exists"; and

WHEREAS, A.R.S. § 36-186 proscribes the powers and duties of the directors of county public health departments which includes enforcing and observing the rules and "laws of the state pertaining to the preservation of public health"; and

WHEREAS, A.R.S. § 36-186 requires the directors of the county health departments to "enforce any law or ordinance enacted or adopted by the respective jurisdiction relating to public health, including laws and ordinances that relate to public businesses"; and

WHEREAS, A.R.S. § 26-303(E)(2) authorizes all agencies of the state government to be utilized in all activities, including enforcement activities, designed to prevent and alleviate damages, including the impact on health resources and to otherwise save lives, due to COVID-19;

WHEREAS, pursuant to A.R.S. § 36-602, restaurants that fail to maintain sanitary conditions are a public nuisance dangerous to the public health and action may be taken to abate the nuisance by the county health inspectors pursuant to A.R.S. § 36-183.06; and

WHEREAS, it is immediately necessary based on guidance from the Director of the Department of Health Services and other healthcare professionals both in our state and at the federal level to

impose additional measures that protect public health and safety and decrease the strain on our health care providers by containing the spread of COVID-19.

NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, by virtue of the authority vested in me by the Constitution and laws of the State, including but not limited to A.R.S. §§ 26-303 and 36-787, and after consultation with the Director of the Arizona Department of Health Services, do hereby order:

1. Every restaurant with indoor seating in the State of Arizona shall operate at less than 50 percent of the permitted fire code occupant load. Restaurants shall ensure at least six (6) feet of separation between parties or groups at different tables, booths or bar tops, unless the tables are separated by glass or plexiglass. Restaurant staff shall not be counted against the occupancy limit.

2. Every restaurant establishment with outdoor dining areas shall ensure at least six (6) feet of physical distance between tables, benches or other areas for patrons to sit while dining or waiting to be seated.

3. Restaurants shall eliminate any indoor standing room where patrons can congregate and are encouraged to use reservation systems to limit capacity and congregating of patrons.

4. For purposes of this Executive Order, facilities with retractable roofs or garage type windows or doors that open up to the outdoors shall be considered indoor facilities, whether the roof or windows are opened or closed.

5. All buffets, cafeteria style and self-serve food bars at restaurants shall be closed.

6. For purposes of this order, the term "restaurant" is defined as an establishment regularly open for the serving of food to guests for compensation and that has kitchen facilities connected with the restaurant for keeping, cooking and preparing foods required for ordinary food service.

7. This Executive Order supersedes provisions of Executive Orders 2020-34, paragraph 2 and is in addition to requirements of businesses in Executive Orders 2020-36 and 2020-40. All other existing orders regarding precautionary measures required of businesses remain in effect.

8. In addition to penalties and enforcement provided by A.R.S. §§ 26-316 and 26-317, failure to comply with this order and any other guidance issued by the Arizona Department of Health Services related to precautions to mitigate the spread of COVID-19 shall constitute a public nuisance dangerous to the public health pursuant to A.R.S. § 36-601(A) and action is authorized and shall be taken to abate the nuisance by the county health inspectors pursuant to A.R.S. § 36-183.06 or other law enforcement or state agencies as mandated by the Director of the Arizona Department of Health Services, including the immediate closure of such facility, pursuant to A.R.S. § 26-303(E)(2).

9. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

10. This order shall take effect at 10:00 p.m. on Saturday, July 11, 2020 and shall remain in place until further notice and shall be reconsidered for repeal or revision every two weeks following issuance.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

GOVERNOR

DONE at the Capitol in Phoenix on this ninth day of July in the Year Two Thousand Twenty and of the Independence of the United States of America the Two Hundred and Forty-Fifth.

ATTEST:

Secretary of State