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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JANICE ALTMAN, an individual, et al.

Plaintiffs,

vs.

COUNTY OF SANTA CLARA,
CALIFORNIA, et al.

Defendants.

Case No. 4:20-cv-02180-JST

**PLAINTIFFS' APPLICATION FOR TEMPORARY
RESTRAINING ORDER, AND/OR IN THE
ALTERNATIVE, MOTION FOR ISSUANCE OF A
PRELIMINARY INJUNCTION**

Date: TBA
Time: TBA
Location: TBA
Judge: Hon. Jon S. Tigar

First Amended Complaint Filed Apr. 10, 2020

1 **PLAINTIFFS' APPLICATION FOR TEMPORARY RESTRAINING ORDER**

2 Plaintiffs Janice Altman, Ryan Goodrich, Albert Lee Swann, Roman Kaplan, Yan
3 Traytel, Dmitri Danilevsky, Greg David, Scott Chalmers, City Arms East LLC, City Arms LLC,
4 Cuckoo Collectibles LLC d.b.a. Eddy's Shooting Sports, Second Amendment Foundation,
5 California Gun Rights Foundation, National Rifle Association of America, California
6 Association of Federal Firearms Licensees, Inc., and Firearms Policy Coalition, Inc.
7 ("Plaintiffs"), by and through counsel undersigned, and pursuant to Fed. Rule of Civ. Pro. 65,
8 and Northern District Civ. Local Rule 65-1, hereby and respectfully apply to this Court for the
9 issuance of a Temporary Restraining Order.
10

11 By and through this Application, Plaintiffs seek an order that would temporarily enjoin
12 Defendants County of Santa Clara, Laurie Smith (sued in her Capacity as Sheriff of the County
13 of Santa Clara), Jeffrey Rosen (sued in his official capacity as Santa Clara County District
14 Attorney), Sara Cody (sued in her official capacity as Santa Clara County Health Officer), City
15 of San Jose, California, Sam Liccardo (sued in his official capacity as Mayor of San Jose),
16 Edgardo Garcia (sued in his official capacity as Chief of Police for the City of San Jose), City of
17 Mountain View, California, Max Bosel (sued in his official capacity as the Chief of Police for the
18 City of Mountain View), County of Alameda, California, Gregory Ahern (sued in his capacity as
19 Sheriff of the County of Alameda), Erica Pan (sued in her capacity as Health Officer of the
20 County of Alameda), County of San Mateo, California, Carlos Bolanos (sued in his capacity as
21 Sheriff of the County of San Mateo), Scott Morrow (sued in his capacity as San Mateo County
22 Health Officer), City of Pacifica, California, Dan Steidle (sued in his official capacity as the
23 Chief of Police for the City of Pacifica), County of Contra Costa, California, David Livingston
24 (sued in his capacity as Sheriff of the County of Contra Costa), Chris Farnitano (sued in his
25 capacity as Health Officer of Contra Costa County), City of Pleasant Hill, California, and Bryan
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1 Hill (sued in his official capacity as Chief of Police for the City of Pleasant Hill) (“Defendants”),
2 and each of their respective employees, officers, agents, representatives, and those acting in
3 concert or participation with them, from closing or compelling the closure of retail firearm and
4 ammunition businesses on the grounds they are “non-essential businesses” under: the “ORDER OF
5 THE HEALTH OFFICER OF THE COUNTY OF SANTA CLARA DIRECTING ALL INDIVIDUALS LIVING IN
6 THE COUNTY TO SHELTER AT THEIR PLACE OF RESIDENCE,” etc., issued on March 16, 2020 and as
7 revised on March 31, 2020 (“Santa Clara County Orders”); the “ORDER OF THE HEALTH OFFICER
8 OF THE COUNTY OF ALAMEDA DIRECTING ALL INDIVIDUALS LIVING IN THE COUNTY TO SHELTER
9 AT THEIR PLACE OF RESIDENCE,” etc., issued on March 16, 2020 and as revised on March 31,
10 2020 (“Alameda County Orders”); the ORDER OF THE HEALTH OFFICER OF THE COUNTY OF SAN
11 MATEO DIRECTING ALL INDIVIDUALS LIVING IN THE COUNTY TO SHELTER AT THEIR PLACE OF
12 RESIDENCE,” etc., issued March 16, 2020 and as revised on March 31, 2020 (“San Mateo County
13 Orders”); the “ORDER OF THE HEALTH OFFICER OF THE COUNTY OF CONTRA COSTA DIRECTING
14 ALL INDIVIDUALS LIVING IN THE COUNTY TO SHELTER AT THEIR PLACE OF RESIDENCE,” etc.,
15 issued on March 16, 2020 and as revised on March 31, 2020 (“Contra Costa County Orders”);
16 and the orders, policies, practices and customs of the Santa Clara County Sheriff’s Department,
17 the Santa Clara County District Attorney’s Office, the San Jose Police Department, the Mountain
18 View Police Department, the Alameda County Sheriff’s Department, the San Mateo County
19 Sheriff’s Department, Pacifica Police Department, the Contra Costa County Sheriff’s
20 Department, and the Pleasant Hill Police Department.

21 By and through this Application, and pursuant to N.D. Local Rule 65-1, Plaintiffs further
22 request that this Court issue an Order to Show Cause fixing the time for hearing a motion for
23 preliminary injunction, why it otherwise should not issue, and which would grant Plaintiffs
24 preliminary injunctive relief as sought herein.

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1 manufacturers, retailers, importers, distributors, shooting ranges, and FSC test providers; (2)
2 deny individuals the right and ability to travel to and from, access, and use firearm and
3 ammunition product retailers, FSC test providers, and shooting ranges to acquire, take possession
4 of, and practice proficiency with constitutionally protected items; (3) deny individuals the right
5 and ability to travel to and from, and operate, firearm and ammunition product manufacturers,
6 retailers, importers, distributors, shooting ranges, and FSC test providers so that individuals can
7 acquire, take possession of, and practice proficiency with constitutionally protected items.
8

9 Dated: April 10, 2020

SEILER EPSTEIN LLP

/s/ George M. Lee

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**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF PLAINTIFFS'
APPLICATION FOR TEMPORARY
RESTRAINING ORDER, AND/OR, IN THE
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I. INTRODUCTION

The “constitution [was] intended to endure for ages to come, and consequently, to be adapted to the various *crises* of human affairs.” *McCulloch v. State*, 17 U.S. 316, 415 (1819). Indeed, “the forefathers ... knew what emergencies were, knew the pressures they engender for authoritative action, knew, too, how they afford a ready pretext for usurpation.” *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 650 (1952) (Jackson, J., concurring). And, “they made no express provision for exercise of extraordinary authority because of a crisis.” *Id.* (Jackson, J., concurring). Put differently, the Constitution’s protections remain robust through peace and turmoil. A declaration of emergency does not justify the denial or destruction of a constitutionally enumerated fundamental right – not even for a limited period of time.

In California, individuals must generally acquire all modern firearms and ammunition from and/or through duly licensed retailers by means of in-person transactions. (Pen. Code §§ 27545; 28050, et seq.; 30342, et seq.; 30370, et seq.). And, with few exceptions, only individuals holding a valid Firearm Safety Certificate (“FSC”) can acquire and take possession of firearms. (Pen. Code § 26840.) Moreover, because of the State’s waiting period laws and background check systems, individual purchasers and transferees must visit a retailer at least once for ammunition, and at least twice for firearms. Therefore, under these laws, the only way for a Californian to take possession of firearms and ammunition for their self-defense and lawful purposes is through in-person transactions. By their Orders and actions shuttering and criminalizing both operating retailers and shooting ranges, and going to and from retailers and ranges, shuttered firearm and ammunition retailers, Defendants have made it impossible for Plaintiffs, Plaintiffs’ members and customers, and similarly situated individuals to purchase firearms and ammunition during this time of extended insecurity by prohibiting the operation of retailers, and the right of individuals to go to and from them, for an indefinite period of time, and until Defendants say so. Defendants have used the COVID-19 pandemic to deprive Californians of their fundamental rights – through mere executive decree, no less – in Orders and enforcement actions affecting millions of people in thousands of square miles—an entire region.

While Defendants have a legitimate interest in reducing the population’s exposure to

1 COVID-19, the extreme manner in which Defendants are doing so – a total ban – is unlawfully
2 overbroad, irrationally tailored to meet that goal, and categorically unconstitutional. The
3 “enshrinement of constitutional rights necessarily takes certain policy choices off the table.”
4 *Heller*, 554 U.S. at 636. These include policy choices and orders effecting an absolute
5 prohibition on the exercise of Second Amendment rights. *Id.* Licensed firearm and ammunition
6 retailers and shooting ranges are essential businesses, provide law-abiding individuals with
7 critical access to constitutionally protected rights, and must remain open like other *essential*
8 businesses.

9 Times of uncertainty and disturbance are *precisely when the right to self-defense is most*
10 *important*. When the Second Amendment was ratified, “Americans understood the ‘right of self-
11 preservation’ as permitting a citizen to ‘repel force by force’ when ‘the intervention of society in
12 his behalf, may be too late to prevent an injury.’” *District of Columbia v. Heller*, 554 U.S. 570,
13 595 (2008) (quoting 1 Blackstone’s Commentaries 145–46, n.42 (1803)) (brackets omitted). A
14 global pandemic epitomizes a setting in which waiting for “the intervention of society” on one’s
15 behalf may be too late.

16 Through their Orders and enforcement actions, Defendants have implemented a number
17 of shockingly broad restrictions that affect both individuals and critically essential small
18 businesses. But not *all* individuals and businesses are affected alike. Some are favored by
19 Defendants and remain open to the public, while others, like Retailer Plaintiffs herein and others
20 similarly situated to them, are threatened with incarceration, fines, and the loss of their
21 livelihoods. But Defendants also threaten, on pain of criminal penalty, those individuals, like
22 Plaintiffs’, Plaintiffs’ members and customers, and others like them, should they dare exercise
23 their rights (and legal obligation) to go to and use a retailer for the lawful acquisition of
24 constitutionally protected items and services for self-defense. Criminalizing going to, coming
25 from, and operating essential businesses that provide access to the constitutionally protected right
26 to keep and bear arms for self-defense — especially in a manner that is inconsistent with other
27 so-called “essential businesses”— cannot withstand constitutional scrutiny or even rational
28 objectivity. The injunctive relief that Plaintiffs have been forced to seek through this action is

1 necessary – and immediately so – to uphold this bedrock principle of the United States
2 Constitution.

3 II. STATEMENT OF FACTS

4 *State Orders Background*

5 In response to the COVID-19 coronavirus pandemic, on March 17, 2020, Governor
6 Newsom told reporters that his declaring martial law was an option if he feels it necessary.¹
7 Governor Newsom then signed Executive Order N-33-20 on March 19, 2020. (“Executive
8 Order”). See Decl. of George M. Lee (“Lee Decl.”) **Ex. 1**. Governor Newsom’s Executive Order
9 included an order from Dr. Sonia Y. Angell, the State Public Health Officer. On March 22, 2020,
10 Dr. Angell issued a list of “Essential Critical Infrastructure Workers.” Taken together, the State’s
11 Orders directed “all individuals living in the State of California to stay home or at their place of
12 residence.” The only exceptions are for whatever is “needed to maintain continuity of operations
13 of the federal critical infrastructure sectors.” The State Orders granted Dr. Angell the authority to
14 “designate additional sectors as critical in order to protect the health and well-being of all
15 Californians,” but do not identify any additional sectors nor indicate which sectors may qualify
16 as critical. These Orders took effect “immediately” and remain in effect indefinitely. Then, on
17 April 3, 2020, counsel for Gov. Newsom and Public Health Officer Angell represented to the
18 court in another federal action that, “As the Governor has publicly confirmed, the Executive
19 Order does not mandate the closure of firearms and ammunition retailers. To the extent any local
20 official acting on his or her own authority requires the closure of those retailers, such actions do
21 not concern the Executive Order.”²

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24 ¹ “We have the ability to do martial law . . . if we feel the necessity.”
25 [https://www.independent.co.uk/news/world/americas/coronavirus-california-martial-law-shelter-](https://www.independent.co.uk/news/world/americas/coronavirus-california-martial-law-shelter-in-place-lockdown-army-a9410256.html)
26 [in-place-lockdown-army-a9410256.html](https://www.independent.co.uk/news/world/americas/coronavirus-california-martial-law-shelter-in-place-lockdown-army-a9410256.html).

27 ² State Defs.’ Opp. Pls.’ Ex Parte App. Temp. Restraining Ord., *Brandy v. Villanueva*, C.D.Cal
28 No. 2:20-cv-02874-AB-AK, online at [https://www.courtlistener.com/recap/gov.uscourts.cacd.777785/gov.uscourts.cacd.777785.24.0_1](https://www.courtlistener.com/recap/gov.uscourts.cacd.777785/gov.uscourts.cacd.777785.24.0_1.pdf)
[.pdf](https://www.courtlistener.com/recap/gov.uscourts.cacd.777785/gov.uscourts.cacd.777785.24.0_1.pdf). The *Brandy* matter involved similar orders at issue; see *infra* at p. 11.

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1 On March 30, 2020, Defendant Mountain View Police Chief Max Bosel sent an email to
2 Plaintiff Greg David, in which Chief Bosel advised Mr. David that his Santa Clara County
3 business, Plaintiff Cuckoo Collectibles LLC d.b.a. Eddy's Shooting Sports, was required to
4 close. Pursuant to Defendant Santa Clara County's Order, Plaintiffs and other firearm retailers
5 that Defendants deem to be non-essential are not permitted to operate and sell any firearms,
6 ammunition, or accessories. (David Decl., ¶ 8-9, 10-15.) As reported by San Jose Mercury News,
7 Defendant Sam Liccardo, the Mayor of Defendant San Jose, said, "We are having panic buying
8 right now for food. The one thing we cannot have is panic buying of guns."⁵ (Lee Decl., **Ex. 6**.)

9 Enforcement against firearm and ammunition retailers, and individuals who would use
10 them, spans across Santa Clara County. For example, on the website for Reed's Indoor Range,⁶ a
11 shooting range, retailer, and training facility in Santa Clara County, the Notice provides:

12 Closed by order of the Santa Clara County District Attorney. If you have questions
13 about the Order, contact the DA 408-792-2300. If you are in your 30-day period on
14 a firearm, we cannot deliver it without further guidance from the county. We will
15 open again as quickly as possible, but for now we are not allowed to process firearm
pickups or registrations. Updates will be posted on social media and our website.
Please stay safe and healthy.

16 (Lee Decl., **Ex. 5**, p. 0047.)

17 *Alameda County Orders and Enforcement*

18 On March 16, 2020, the Public Health Department of the County of Alameda issued an
19 order directing all residents of the County to shelter in place.⁷ This Order was substantively
20 identical with the Santa Clara County Order issued March 16, 2020 (described above), but
21 applicable to Alameda County. (Lee Decl., **Ex. 7**.) Likewise, under the Alameda County Order,
22 firearm and ammunition retailers and shooting ranges are not listed as "Essential Businesses." *Id.*
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25 ⁵ <https://www.mercurynews.com/2020/03/18/coronavirus-san-jose-orders-gun-store-to-close-in-one-of-first-tests-of-essential-under-shelter-order/>.

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27 ⁶ <http://www.reedsindoorange.com>.

28 ⁷ <https://www.acgov.org/documents/Final-Order-to-Shelter-In-Place.pdf>.

1 Under Section 11 of the Order, Defendant Sheriff Ahern and all chiefs of police of the County
2 are tasked with enforcement of the provisions set forth in the Order.

3 On March 31, 2020, the Public Health Department of Alameda County issued an
4 additional Order superseding the March 16, 2020 order and directing all residents of the County
5 to continue to shelter in place until May 3, 2020.⁸ (Lee Decl., **Ex. 8**.) Under Section 13(f) of the
6 March 31 order, firearm and ammunition retailers and ranges are not “Essential Businesses.” *Id.*

7 Plaintiff Albert Swann, a resident of Alameda County, wishes to purchase firearms and
8 ammunition for self-defense and defense of his home. Mr. Swann is not prohibited from
9 possessing firearms or ammunition under state or federal law. He would purchase firearms and
10 ammunition in Alameda County, but he is unable to do so as a direct result of the Alameda
11 Order. (Swann Decl., ¶¶ 4–8.)

12 Multiple news outlets have published reports that Alameda County Defendants are
13 actively shuttering access to arms, the ammunition required to use those arms, and the shooting
14 ranges and education facilities that individuals need to learn how to safely and competently use
15 firearms by forcing firearm and ammunition product manufacturers, retailers, importers,
16 distributors, and shooting ranges within Alameda County to close their doors and stop
17 performing sales, transfers, shipments, and deliveries of firearms and ammunition. (Lee Decl.,
18 **Ex. 9 and Ex. 10**.)^{9 10}

24 ⁸ <http://www.acphd.org/media/563688/health-officer-order-20-04-shelter-in-place-20200331.pdf>

25 ⁹ [https://www.eastbaytimes.com/2020/03/26/coronavirus-l-a-sheriff-goes-back-to-closing-gun-](https://www.eastbaytimes.com/2020/03/26/coronavirus-l-a-sheriff-goes-back-to-closing-gun-stores-will-others-follow)
26 [stores-will-others-follow.](https://www.eastbaytimes.com/2020/03/26/coronavirus-l-a-sheriff-goes-back-to-closing-gun-stores-will-others-follow)

27 ¹⁰ [https://www.businessinsider.com/california-coronavirus-gun-stores-essential-business-gavin-](https://www.businessinsider.com/california-coronavirus-gun-stores-essential-business-gavin-newsom-2020-3)
28 [newsom-2020-3.](https://www.businessinsider.com/california-coronavirus-gun-stores-essential-business-gavin-newsom-2020-3)

1 *San Mateo County Orders and Enforcement*

2 On March 16, 2020, the Public Health Department of the County of San Mateo issued an
3 Order directing all residents of the County to shelter in place.¹¹ (Lee Decl., **Ex. 11.**) Again, this
4 Order is substantively identical to other county orders described above, applicable to San Mateo
5 County. Under Section 10(f) of the Order, firearm and ammunition retailers and shooting ranges
6 are not “Essential Businesses.” Under Section 11, the Defendant Sheriff Bolanos and all chiefs of
7 police of the County are tasked with the enforcement of the provisions set forth in the Order. *Id.*

8 On March 31, 2020, the Public Health Department of San Mateo issued an additional
9 Order superseding the March 16, 2020 Order and directing all residents of the County to continue
10 to shelter in place until May 3, 2020.¹² Again, this Order did not list firearm and ammunition
11 retailers and shooting ranges as “Essential Businesses.” (Lee Decl., **Ex. 11.**) Defendant Sheriff
12 Bolanos and all chiefs of police of the County are tasked with enforcement of the provisions set
13 forth in the March 31, 2020 Order. *Id.*

14 On March 23, 2020, Pacifica Police informed Plaintiffs Dmitriy Danilevsky and City
15 Arms LLC that they were required to halt all new sales of firearms and ammunition because
16 firearm and ammunition retailers, like theirs, were non-essential businesses in San Mateo County
17 and therefore required to close. Mr. Danilevsky was informed at that time that the store was
18 provisionally permitted to remain open for the purpose of delivering firearms that had already
19 been purchased, but for no other purpose. (Danilevsky Decl., ¶ 10.) Plaintiffs Danilevsky and
20 City Arms LLC were advised further that the provisional operation allowance was temporary and
21 would expire on April 6, 2020, at which point they were required to close the store entirely and
22 cease all operations. (*Id.*, at ¶ 11.)

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25
26 ¹¹<https://www.smcgov.org/sites/smcgov.org/files/HO%20Order%20Shelter%20in%20Place%2020200316.pdf>.

27
28 ¹² <https://www.smcgov.org/sites/smcgov.org/files/Final%203-31%20Order.pdf>.

1 *Contra Costa County Orders and Enforcement*

2 On March 16, 2020, the Public Health Department of the County of Contra Costa issued
3 an Order directing all residents of the County to shelter in place identical in substance to the
4 orders described above, but applicable to Contra Costa County.¹³ (Lee Decl., **Ex. 12.**) Similarly,
5 under this Order, firearm and ammunition retailers and shooting ranges are not “Essential
6 Businesses.” *Id.* Under Section 11 of the Order, Defendant Sheriff Livingston and all chiefs of
7 police of the County are tasked with enforcement of the provisions set forth in the Order.

8 Again, on March 31, 2020, the Public Health Department of the County of Contra Costa
9 issued an additional order superseding the March 16, 2020 Order and directing all residents of
10 the County to continue to shelter in place until May 3, 2020.¹⁴ (Lee Decl., **Ex. 13.**) Under this
11 Order, all non-essential businesses are ordered to cease all activities at facilities located within
12 the County and under section 13(f), firearm and ammunition retailers and ranges are not
13 “Essential Businesses.” Defendant Sheriff Livingston and all chiefs of police of the County are
14 tasked with the enforcement of the provisions set forth in the March 31st Order. *Id.*

15 Plaintiff Ryan Goodrich, a resident of Contra Costa County, wishes to purchase firearms
16 and ammunition for self-defense, defense of his home, and for work. (Goodrich Decl., ¶¶ 4-9.)
17 Mr. Goodrich is not prohibited from possessing firearms or ammunition under state or federal
18 law. He is employed as an armored truck driver. (*Id.*, at ¶¶ 3, 5.) Under the Contra Costa Order,
19 Mr. Goodrich is considered an essential worker based on his profession, and in order to fulfill his
20 duties, he requires access to firearms and ammunition. Mr. Goodrich would purchase the
21 ammunition he needs for self-defense, the defense of his home, and to execute his work duties.
22 (*Id.*, at ¶ 5.)
23
24
25

26 ¹³ <https://cchealth.org/coronavirus/pdf/HO-COVID19-SIP-0316-2020.pdf>.

27 ¹⁴ [https://www.contracosta.ca.gov/DocumentCenter/View/64727/2020-0331-Health-Officer-](https://www.contracosta.ca.gov/DocumentCenter/View/64727/2020-0331-Health-Officer-Order-COVID19)
28 [Order-COVID19](https://www.contracosta.ca.gov/DocumentCenter/View/64727/2020-0331-Health-Officer-Order-COVID19).

1 On March 25, 2020, the Pleasant Hill Police Department informed plaintiffs Roman
2 Kaplan, Yan Traytel, and City Arms East LLC that their store in Contra Costa County could no
3 longer make any new sales or transfers of firearms or ammunition. (Kaplan Decl., ¶¶10-12;
4 Traytel Decl., ¶¶ 10-13.) On March 31, 2020, in an email to Plaintiff Kaplan, Ronald Priebe of
5 the Pleasant Hill Police Department confirmed that the City was continuing to enforce a
6 shutdown against Plaintiffs Kaplan and Traytel’s City Arms East. (*Id.*)

7 On April 1, 2020, in an email to Plaintiff Kaplan, Ronald Priebe of the Pleasant Hill
8 Police Department stated:

9 I determined a new order was issued by the county health officer, and went into
10 effect at midnight last night. I’ve attached a copy and highlighted some of what I
11 believe to be relevant points. Unfortunately, it looks like they did not adopt the fed’s
12 advisory definitions for essential businesses. There is no mention of gun stores in
13 the county order. They do make some reference to businesses that *support* essential
14 businesses (such as a law enforcement organization needing to buy guns/ammo
15 from you), but that likely wouldn’t apply to individuals (law enforcement or
16 otherwise). There are other restrictions related to conducting business, such as
17 social distancing, sending non-essential employees to work from home, etc.
Although I’ve highlighted some of the pertinent paragraphs related to your
situation, other portions of the order may be new and need to be adopted, if you’ll
continue operating in a limited fashion (as we discussed previously, for gun releases
only). I wish had better news to share and could help more. As always, I appreciate
your support and cooperation given the situation we’re currently facing.

18 (Kaplan Decl., **Ex. 1.**) Mr. Priebe attached the March 31, 2020 Contra Costa shelter in place
19 order with “pertinent paragraphs related to [Plaintiff Kaplan’s] situation.” (*Id.*, **Ex. 2.**)

20 ■ ■ ■

21 In California, a violation of a statute is a misdemeanor unless specified to be punishable
22 otherwise. California Penal Code Prelim. Prov. 19.4 (“When an act or omission is declared by a
23 statute to be a public offense and no penalty for the offense is prescribed in any statute, the act or
24 omission is punishable as a misdemeanor.”). County Defendants’ Orders, enforced by Defendant
25 sheriffs and police chiefs, among others, commonly state: “Pursuant to Government Code
26 sections 26602 and 41601 and Health and Safety Code section 101029, the Health Officer
27 requests that the Sheriff and all chiefs of police in the County ensure compliance with and
28 enforce this Order. The violation of any provision of this Order constitutes an imminent threat

1 and menace to public health, constitutes a public nuisance, and is punishable by fine,
2 imprisonment, or both.” Thus, under Defendants’ Orders and enforcement policies, it is a crime
3 for individuals to leave their homes and go to firearms and ammunition retailers and shooting
4 ranges. Additionally, it is a crime for retailers and ranges, including Plaintiffs herein, to operate.

5 In total, “health officers in seven Bay Area jurisdictions are extending a previous stay-at-
6 home order at least through May 3, 2020 in order to preserve critical hospital capacity across the
7 region.” (Lee Decl., **Ex. 14.**) Currently, six Northern California counties have completely banned
8 the operation of firearm and ammunition retailers (Alameda, Contra Costa, Marin, Santa Clara,
9 San Francisco, and San Mateo Counties). Collectively, and not including the counties of Marin
10 and San Francisco, Defendant counties alone have banned and shut down firearms and
11 ammunition retailers for over 3,600 square miles, closing off and damaging the fundamental
12 rights of over 5 million people in California who reside in these counties. (Lee Decl., **Ex. 15.**)

13 Notably, the Department of Homeland Security, Cyber-Infrastructure Division (“CISA”),
14 issued updated (Version 2.0) “Guidance on the Essential Critical Infrastructure Workforce”
15 during the COVID-19 pandemic. (Lee Decl., **Ex. 15.**)¹⁵ While the CISA’s guidance is advisory in
16 nature, its findings and conclusions were “developed, in collaboration with other federal
17 agencies, State and local governments, and the private sector” for the specific purpose of
18 “help[ing] State, local, tribal and territorial officials as they work to protect their communities,
19 while ensuring continuity of functions critical to public health and safety, as well as economic
20 and national security.” To that end, CISA determined that “[w]orkers supporting the operation of
21 firearm or ammunition product manufacturers, retailers, importers, distributors, and shooting
22 ranges” fall squarely within the “critical infrastructure workforce.”

23 In addition to the individual and retailer Plaintiffs, Plaintiffs Second Amendment
24 Foundation, Inc. (“SAF”), California Gun Rights Foundation (“CGF”), California Association of
25 Federal Firearms Licensees, Inc. (“CAL-FFL”), National Rifle Association of America (“NRA”),
26

27 ¹⁵ Guidance on the Essential Critical Infrastructure Workforce,
28 <https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce>

1 and Firearms Policy Coalition, Inc. (“FPC”) are themselves damaged by the Orders and
2 enforcement actions. Beyond their own direct damages, these institutional plaintiffs have
3 California members and supporters who are affected by Defendants’ Orders and enforcement
4 actions. (See Declarations of Brandon Combs, Alan Gottlieb, Gene Hoffman, Mike Baryla, and
5 Josh Savani.) All Plaintiffs accordingly seek this necessary relief.

6 ***Brandy v. Villanueva***

7 In *Brandy v. Villanueva et al.*, C.D. Case No. 2:20-cv-02874-AB-AK, the district court
8 considered and on April 6, 2020, denied the plaintiffs’ application for a temporary restraining
9 order against similar orders [ECF No. 29].

10
11 **III. ARGUMENT**

12 **A. STANDARD FOR ISSUING A TEMPORARY RESTRAINING ORDER AND PRELIMINARY**
13 **INJUNCTION.**

14 This court is well familiar with the four-factor test on an application for a temporary
15 restraining order and motion for a preliminary injunction. A plaintiff “must establish that he is
16 likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of
17 preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the
18 public interest.” *Am. Trucking Ass’n, Inc. v. City of Los Angeles*, 559 F.3d 1046, 1052 (9th Cir.
19 2009) (quoting *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 20 (2008)). To grant preliminary
20 injunctive relief, a court must find that “a certain threshold showing [has been] made on each
21 factor.” *Leiva-Perez v. Holder*, 640 F.3d 962, 966 (9th Cir. 2011). Assuming that this threshold
22 has been met, “serious questions going to the merits’ and a balance of hardships that tips sharply
23 towards the plaintiff can support issuance of a preliminary injunction, so long as the plaintiff also
24 shows that there is a likelihood of irreparable injury and that the injunction is in the public
25 interest.” *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011).

26 **B. PLAINTIFFS WILL SUCCEED ON THE MERITS OF THEIR CLAIMS.**

27 Plaintiffs will succeed on the merits of their claims, as the Defendants’ sweeping Orders
28 and enforcement actions at issue prohibit millions of Californians in an entire region from

1 exercising fundamental rights guaranteed by the Second Amendment, and violate principles of
2 Due Process under the Fifth and Fourteenth Amendments.

3 **1. Defendants’ Orders and Enforcement Actions Deny Access To, Exercise Of, and**
4 **Infringe Fundamental, Individual Second Amendment Rights.**

5 The Second Amendment to the United States Constitution provides: “A well regulated
6 Militia, being necessary to the security of a free State, the right of the people to keep and bear
7 Arms, shall not be infringed.” U.S. Const. amend. II. The Second Amendment “guarantee[s] the
8 individual right to possess and carry weapons in case of confrontation.” *Heller*, 554 U.S. at 592.
9 And because “the Framers and ratifiers of the Fourteenth Amendment counted the right to keep
10 and bear arms among those fundamental rights necessary to our system of ordered liberty,” it
11 applies to the States through the Fourteenth Amendment. *McDonald v. City of Chicago*, 561 U.S.
12 742, 778, 791 (2010) (plurality opinion).

13 The Supreme Court has held that the Second Amendment guarantees the right to
14 “possess” weapons. *Heller*, 554 U.S. at 592. And “the Court has acknowledged that certain
15 unarticulated rights are implicit in enumerated guarantees. . . . [F]undamental rights, even though
16 not expressly guaranteed, have been recognized by the Court as indispensable to the enjoyment
17 of rights explicitly defined.” *Richmond Newspapers v. Virginia*, 448 U.S. 555, 579–80 (1980).
18 Accordingly, “the right to possess firearms for protection implies a corresponding right to obtain
19 the bullets necessary to use them.” *Jackson v. City & Cty. of San Francisco*, 746 F.3d 953, 967
20 (9th Cir. 2014) (citing *Ezell v. City of Chicago*, 651 F.3d 684, 704 (7th Cir. 2011)). And “[t]he
21 right to keep arms, necessarily involves the right to purchase them.” *Andrews v. State*, 50 Tenn.
22 165, 178 (1871). See *Illinois Ass’n of Firearms Retailers v. City of Chicago*, 961 F.Supp.2d 928,
23 930 (N.D. Ill. 2014) (“the right to keep and bear arms for self-defense under the Second
24 Amendment . . . must also include the right to *acquire* a firearm”) (emphasis in original); *cf.*
25 *Tattered Cover v. City of Thornton*, 44 P.3d 1044, 1052 (Colo. 2002) (“When a person buys a
26 book at a bookstore, he engages in activity protected by the First Amendment because he is
27 exercising his right to read and receive ideas and information.”). Thus, the right to possess
28 weapons necessarily also includes the right to acquire and transfer them. “Without protection for

1 these closely related rights, the Second Amendment would be toothless.” *Luis v. United States*,
2 136 S.Ct. 1083, 1098 (2016) (Thomas, J., concurring).

3 For all these same reasons, firearm retailers are protected by the Second Amendment. If
4 “[a] total prohibition against sale of contraceptives ... would intrude upon individual decisions in
5 matters of procreation and contraception as harshly as a direct ban on their use,” *Carey v.*
6 *Population Servs., Int’l*, 431 U.S. 678, 687–88 (1977), the same rationale applies to firearms.
7 Thus, “[c]ommercial regulations on the sale of firearms do not fall outside the scope of the
8 Second Amendment.” *United States v. Marzzarella*, 614 F.3d 85, 92 n.8 (3d Cir. 2010). “If there
9 were somehow a categorical exception for these restrictions [on gun sales], it would follow that
10 there would be no constitutional defect in prohibiting the commercial sale of firearms. Such a
11 result would be untenable under *Heller*.” *Id.* See also *Mance v. Sessions*, 896 F.3d 699 (5th Cir.
12 2018) (implicitly recognizing a right to sell firearms by analyzing a burden on that right).

13 **(a) Defendants’ Orders and Enforcement Actions Are a Prohibition on**
14 **Second Amendment Rights and Categorically Unconstitutional.**

15 The Supreme Court held in *Heller* that the appropriate test to be applied is a categorical
16 one, first looking to the text of the Constitution itself, and then looking to history and tradition to
17 inform the scope and meaning of that text. Indeed, *Heller* held a handgun ban – which is the
18 effect of Defendants’ expansive Orders and actions, among other restrictions – categorically
19 unconstitutional: “Whatever the reason, handguns are the most popular weapon chosen by
20 Americans for self-defense in the home, and a complete prohibition of their use is invalid.” 554
21 U.S. at 629. “Both *Heller* and *McDonald* suggest that broadly prohibitory laws restricting the
22 core Second Amendment right—like the handgun bans at issue in those cases, which prohibited
23 handgun possession even in the home—are categorically unconstitutional.” *Ezell*, 651 F.3d at
24 703 (emphasis added).

25 At issue here is a complete and unilateral suspension on the right of ordinary citizens to
26 acquire firearms and ammunition, a right protected by the Second Amendment. Due to the ever-
27 expanding nature of the laws regulating firearm transfers, in-person visits to gun stores and
28 retailers are the *only* legal means for ordinary, law-abiding citizens to acquire and purchase

1 firearms—and now, ammunition—within the State of California. See, e.g., Cal. Pen. Code §
2 27545 (requiring all firearm transfers be processed through a licensed dealer); Pen. Code § 30312
3 (requiring all ammunition transactions to be made through a licensed ammunition vendor, in a
4 face-to-face transfer). In addition, firearm and ammunition retailers are required to initiate
5 background checks at the point of transfer to fulfill the State’s mandates, administer the vast
6 majority of FSC tests to ensure that a recipient is aware of firearm safety rules, and administer
7 the safe handling demonstration. Pen. Code §§ 28175 (“The dealer or salesperson making a sale
8 shall ensure that all required information has been obtained from the purchaser. The dealer and
9 all salespersons shall be informed that incomplete information will delay sales.”); 28200 et seq.
10 (establishing procedure for collecting information and fees associated with required background
11 checks). These are additional services that gun store dealers now *must* provide in furtherance of
12 the State’s statutes and regulations.

13 The State has mandated these burdensome in-person requirements, requiring, for
14 example, at least two visits to licensed retailers for each firearm transaction, and at least one for
15 ammunition transactions. Defendants simply cannot be permitted to take actions that effectively
16 ban access to, on pain of criminal liability, and shut down all firearm and ammunition transfers in
17 their jurisdictions. Such transactions cannot be done remotely as many other, non-firearm online
18 retailers are able to do. *See* Pen. Code § 27540 (requirements for dealer delivery of firearms).
19 The effect of Defendants’ Orders and enforcement actions is a destruction of a fundamental,
20 individual right. It is well established that the deprivation of constitutionally protected individual
21 liberty, even temporarily, constitutes irreparable injury. *Associated Press v. Otter*, 682 F.3d 821,
22 826 (9th Cir. 2012) (“the loss of First Amendment freedoms, for even minimal periods of time,
23 unquestionably constitutes irreparable injury.”) (quoting *Elrod v. Burns*, 427 U.S. 347, 373
24 (1976)).

25 The effect of Defendants’ Orders, and Defendants’ enforcement of them, is a ban on
26 individuals’ going to and from, and on the operation of, all firearm and ammunition retailers and
27 shooting ranges in the massive jurisdictions within which their various Orders apply. As the
28 Orders are now being interpreted and enforced, millions of Californians are being prevented from

1 acquiring or practicing with firearms or ammunition, and during a time of national *crisis*.

2 Defendants' is a policy outcome that is completely taken off the table under *Heller*. The
3 "central" holding in *Heller* was "that the Second Amendment protects a personal right to keep
4 and bear arms for lawful purposes, most notably for self-defense within the home." *McDonald*,
5 561 U.S. at 780. "The very enumeration of the right takes out of the hands of government—even
6 the Third Branch of Government—the power to decide on a case-by-case basis whether the right
7 is really worth insisting upon." *Heller*, 554 U.S. at 634.

8 Plaintiffs must here preserve and maintain their position that any interest-balancing test,
9 including tiered scrutiny, is inappropriate under *Heller*, particularly for categorical bans like and
10 including those at issue here. *Heller*, 554 U.S. at 634, 635 ("We know of no other enumerated
11 constitutional right whose core protection has been subjected to a freestanding 'interest-
12 balancing' approach"; "The Second Amendment . . . is the very product of an interest balancing
13 by the people"); *Ezell*, 651 F.3d at 703 ("Both *Heller* and *McDonald* suggest that broadly
14 prohibitory laws restricting the core Second Amendment right—like the handgun bans at issue in
15 those cases, which prohibited handgun possession even in the home—are categorically
16 unconstitutional.").

17 Anyone who does not already own a firearm in Defendant Counties is now entirely
18 prohibited from exercising their Second Amendment rights in thousands of square miles
19 throughout Defendants' jurisdictions, at a time when those rights are most important. As such,
20 Defendants' actions amount to a categorical ban and should be categorically invalidated.

21 **(b) The Orders Cannot Survive Any Level of Scrutiny.**

22 The Defendants' orders and actions also fail the Ninth Circuit's two-part test applying
23 tiered scrutiny. Assuming *arguendo* that an interest-balancing test is appropriate, the challenged
24 provisions fail any level of scrutiny. Generally, the Ninth Circuit applies a two-part test for
25 Second Amendment challenges. *United States v. Chovan*, 735 F.3d 1127 (9th Cir. 2013). "The
26 two-step Second Amendment inquiry we adopt (1) asks whether the challenged law burdens
27 conduct protected by the Second Amendment and (2) if so, directs courts to apply an appropriate
28 level of scrutiny." *Id.* at 1136–37. But consistent with Supreme Court precedent, "[a] law that

1 imposes such a severe restriction on the fundamental right of self defense of the home that it
2 amounts to a destruction of the Second Amendment right is unconstitutional under any level of
3 scrutiny.” *Silvester v. Harris*, 843 F.3d 816, 821 (9th Cir. 2016). *Accord Bauer v. Becerra*, 858
4 F.3d 1216, 1222 (9th Cir. 2017) (“A law that . . . amounts to a destruction of the Second
5 Amendment right is unconstitutional under any level of scrutiny”). “That is what was involved
6 in *Heller*.” *Silvester*, 843 F.3d at 821 (citing *Heller*, 554 U.S. at 628–29).

7 As discussed above, Defendants’ acts strike at the very core of the Second Amendment,
8 thereby satisfying the first step of the two-part test. At the second step of the inquiry, a court is to
9 measure “how severe the statute burdens the Second Amendment right. ‘Because *Heller* did not
10 specify a particular level of scrutiny for all Second Amendment challenges, courts determine the
11 appropriate level by considering ‘(1) how close the challenged law comes to the core of the
12 Second Amendment right, and (2) the severity of the law’s burden on that right.’” *Duncan v.*
13 *Becerra*, 265 F.Supp.3d 1106, 1119 (S.D. Cal. 2017) (granting preliminary injunction), *aff’d*, 742
14 F.App’x 218 (9th Cir. 2018) (quoting *Bauer*, 858 F.3d at 1222). “Guided by this understanding,
15 [the] test for the appropriate level of scrutiny amounts to ‘a sliding scale.’ [...] ‘A law that
16 imposes such a severe restriction on the fundamental right of self defense of the home that it
17 amounts to a destruction of the Second Amendment right is unconstitutional under any level of
18 scrutiny.’ [...] Further down the scale, a ‘law that implicates the core of the Second Amendment
19 right and severely burdens that right warrants strict scrutiny. Otherwise, intermediate scrutiny is
20 appropriate.” *Bauer*, 858 F.3d at 1222 (citing *Silvester*, 843 F.3d at 821, and *Chovan*, 735 F.3d
21 at 1138; *see also*, *Bateman v. Purdue*, 881 F.Supp.2d 709, 715 (E.D. N.C. 2012) (applying strict
22 scrutiny to North Carolina’s emergency declaration statutes that effectively prevented access to
23 firearms).

24 If heightened scrutiny applies, Defendants’ policies should be evaluated under strict
25 scrutiny, meaning Defendants must show that their policies are narrowly tailored to achieve a
26 compelling state interest, and that no less restrictive alternative exists to achieve the same ends.
27 *United States v. Alvarez*, 617 F.3d 1198, 1216 (9th Cir. 2010) (citing *Citizens United v. Fed.*
28 *Election Comm’n*, 558 U.S. 310, 340 (2010)). With the wide breadth of the Order and its effect of

1 completing destroying the right to keep and bear arms during this pandemic, by no stretch of
2 imagination would it survive strict scrutiny – which highlights the reality that it is the very sort of
3 categorical ban that can never be tolerated under *Heller*. This calculus does not change in an
4 emergency, declared or otherwise. In *Bateman v. Purdue*, the district court evaluated North
5 Carolina’s statutes which authorized government officials to impose various restrictions on the
6 possession, transportation, sale, and purchase of “dangerous weapons” during declared states of
7 emergency. 881 F.Supp.2d at 710–11. The district court evaluated the statutes under the two-part
8 test, and found first that “[i]t cannot be seriously questioned that the emergency declaration laws
9 at issue here burden conduct protected by the Second Amendment.” *Id.* at 713–14. “Additionally,
10 although the statutes do not directly regulate the possession of firearms within the home, they
11 effectively prohibit law abiding citizens from purchasing and transporting to their homes
12 firearms and ammunition needed for self-defense. As such, these laws burden conduct protected
13 by the Second Amendment.” Accordingly, under strict scrutiny, the emergency declaration
14 statutes were voided and declared to be unconstitutional since the statutes were not narrowly
15 tailored, e.g., with reasonable time, place and manner restrictions. *Id.* at 716.

16 Accordingly, if heightened scrutiny is appropriate here, strict scrutiny should likewise
17 apply. But even under intermediate scrutiny, the Order, and the Defendants’ enforcement of it,
18 are unconstitutional. Under intermediate scrutiny review, the government bears the burden of
19 demonstrating a reasonable fit between the challenged regulation or law and a substantial
20 governmental objective that the law ostensibly advances. *Board of Trustees of State Univ. of New*
21 *York v. Fox*, 492 U.S. 469, 480–81 (1989). To carry this burden, the government must not only
22 present evidence, but “substantial evidence” drawn from “reasonable inferences” that actually
23 support its proffered justification. *Turner Broad. Sys., Inc.*, 520 U.S. 180, 195 (1997). And in the
24 related First Amendment context, the government is typically put to the evidentiary test to show
25 that the harms it recites are not only real, but “that [the speech] restriction will in fact alleviate
26 them to a material degree.” *Italian Colors Rest. v. Becerra*, 878 F.3d 1165, 1177 (9th Cir. 2018)
27 (citing *Greater New Orleans Broad. Ass’n, Inc. v. United States*, 527 U.S. 173, 188 (1999))
28 (quoting *Edenfield v. Fane*, 507 U.S. 761, 770-71 (1993)). This same evidentiary burden should

1 apply with equal force to Second Amendment cases, where equally fundamental rights are
2 similarly at stake. See, *Ezell*, 651 F.3d at 706–07 (“Both *Heller* and *McDonald* suggest that First
3 Amendment analogues are more appropriate, and on the strength of that suggestion, we and other
4 circuits have already begun to adapt First Amendment doctrine to the Second Amendment
5 context”) (citing *Heller*, 554 U.S. at 582, 595, 635; *McDonald*, 130 S.Ct. at 3045; *see also*
6 *Marzzarella*, 614 F.3d at 89 n.4 (“[W]e look to other constitutional areas for guidance in
7 evaluating Second Amendment challenges. We think the First Amendment is the natural
8 choice.”)).

9 Under intermediate scrutiny, a court must ensure that “the means chosen are not
10 substantially broader than necessary to achieve the government’s interest.” *Ward v. Rock Against*
11 *Racism*, 491 U.S. 781, 800 (1989). Thus, in the First Amendment context, “the government must
12 demonstrate that alternative measures that burden substantially less speech would fail to achieve
13 the government’s interests, not simply that the chosen route is easier.” *McCullen v. Coakley*, 134
14 S.Ct. 2518, 2540 (2014). For example, restrictions on commercial speech must “tailored in a
15 reasonable manner to serve a substantial state interest.” *Edenfield v. Fane*, 507 U.S. 761, 770
16 (1993). The Supreme Court has made abundantly clear that such “reasonable tailoring” requires
17 a considerably closer fit than mere rational basis scrutiny, and requires evidence that the
18 restriction directly and materially advances a *bona fide* state interest. In the Second Amendment
19 context, even Justice Breyer’s balancing test proposed in his *Heller* dissent (and expressly
20 rejected by the majority) considered “reasonable, but less restrictive, alternatives.” 554 U.S. at
21 710 (Breyer, J., dissenting). Many circuit courts recognize the obligation in the Second
22 Amendment context. *Heller v. District of Columbia*, 801 F.3d 264, 277–78 (D.C. Cir. 2015)
23 (“*Heller III*”); *Ass’n of New Jersey Rifle & Pistol Clubs, Inc. v. Attorney Gen. New Jersey*, 910
24 F.3d 106, 124 n.28 (3d Cir. 2018); *Ezell*, 651 F.3d at 709; *Moore v. Madigan*, 702 F.3d 933, 940
25 (7th Cir. 2012); *United States v. Reese*, 627 F.3d 792, 803 (10th Cir. 2010); *Bonidy v. U.S. Postal*
26 *Serv.*, 790 F.3d 1121, 1128 (10th Cir. 2015).

27 “[The Court] must determine whether the regulation *directly* advances the governmental
28 interest asserted, *and whether it is not more extensive than is necessary to serve that interest.*”

1 *Greater New Orleans Broad. Ass'n, Inc.*, 527 U.S. at 183 (internal citations omitted) (emphasis
2 added). The government bears the burden of justifying its restriction on constitutional rights, and
3 that “burden is not satisfied by mere speculation or conjecture; rather, a governmental body
4 seeking to sustain a restriction on commercial speech must demonstrate that the harms it recites
5 are real and that its restrictions will in fact alleviate them to a material degree.” *Edenfield*, 507
6 U.S. at 770-71. “The Government is not required to employ the least restrictive means
7 conceivable . . . but one whose scope is in proportion to the interest served.” *Greater New*
8 *Orleans Broad. Ass'n, Inc.*, 527 U.S. at 188.

9 More, a governmental interest that is as inconsistently pursued as Defendants’ here is not
10 and cannot be a substantial one for constitutional purposes. To be sure, the question is not
11 whether an interest is important at the highest level of generality; rather, the fundamental concern
12 is whether a government is genuinely applying rules about its interest in a consistent manner
13 such that it demonstrates the importance of the interest. Like the regulatory regime that failed
14 constitutional muster in *Greater New Orleans Broad. Ass’n, Inc.*, Defendants’ Orders and
15 enforcement actions here are “so pierced by exemptions and inconsistencies that [they] cannot
16 hope to exonerate [them].” *Id.* at 190.

17 More, the substantiality of the interest in Defendants’ Orders and enforcement actions,
18 relative to the incontrovertible importance of and right to the constitutionally enumerated,
19 fundamental right to keep and bear arms – particularly for self-defense in times of crisis – is
20 informed by the federal government’s declaration that the firearm industry, its workers, and its
21 products, are all critical infrastructure. So too must those who would go to and use them to
22 acquire constitutionally protected items and services be protected in doing so.

23 Here, there can be no “reasonable fit” nor a “proportional fit” between blanket Orders and
24 enforcement actions that prohibit all legal firearm and ammunition transfers and training at
25 shooting ranges, and the Defendants’ presumptive desire to abate the spread of a viral pandemic.
26 Nor can it be said that the mandatory closing of all firearms retailers in their entirety “is not more
27 extensive than is necessary” to limit community spread. Like all other businesses, retailers, and
28 service providers that are exempt from Defendants’ Orders and enforcement actions, firearm and

1 ammunition retailers and ranges, and the people, like Plaintiffs, who would go to them, could
2 abide by maximum occupancy limitations, social distancing requirements, and sanitation
3 regimens just as with the many other essential businesses allowed to continue operating. And
4 likewise, to the extent that certain activities (such as the pickup/transfer of firearms, ammunition,
5 and the safe handling demonstration) are statutorily mandated to be conducted using in-person
6 transactions, these activities can be conducted while adhering to the same best practices and
7 necessary precautions required of other businesses that are permitted to continue operating
8 during this time.

9 Adherence to the Defendants' Orders is simply a take-it-or-leave it proposition, with no
10 room for less restrictive alternatives that would otherwise allow transactions to proceed. As
11 Defendant San Jose Mayor Liccardo recently said, unsurprisingly and as a window into
12 Defendants' motivations, "We are having panic buying right now for food. The one thing we
13 cannot have is panic buying of guns." (Lee Decl., **Ex. 6**, p. 0051.) Defendants' motivations are
14 manifested within this statement, evidence of a simple unwillingness even to consider less
15 restrictive alternatives that would allow firearm transfers to proceed while preserving a purported
16 interest in public health. This zero-tolerance approach, whether motivated by ideological
17 concerns or otherwise, runs afoul of the government's burden that the restrictions at issue be
18 "proportional in scope," "not more extensive than necessary," or reasonably tailored to achieve
19 the government's interest. However laudable an interest may be, well-settled United States
20 Supreme Court jurisprudence has clearly spoken on what constitutes intermediate scrutiny.
21 Defendants' Orders and enforcement actions do not pass constitutional muster under categorical,
22 heightened, or even intermediate constitutional scrutiny.

23 **2. Defendants' Orders and Enforcement Actions Violate Due Process.**

24 Plaintiffs will further prevail on their second claim, set forth in their First Amended
25 Complaint, that the Orders, and Defendants' enforcement practices specifically targeting firearm
26 and ammunition retailers, effect a deprivation of due process under the Fifth and Fourteenth
27 Amendments. The Fifth Amendment to the United States Constitution provides, in pertinent part:
28 "No person shall be. . .deprived of life, liberty or property, without due process of law. . . ."

1 Likewise, the Fourteenth Amendment provides “nor shall any state deprive any person of life,
2 liberty, or property, without due process of law[.]”

3 In this case, arbitrariness exists within all of the Defendants’ Orders and enforcement
4 actions, as the Orders classify as “essential” a variety of businesses which have no clear
5 connection to *essential* goods and services (let alone expressly constitutionally protected goods
6 and services), particularly in a time of crisis. For example, “convenience stores, and other
7 establishments engaged in the retail sale of unprepared food, canned food, dry goods, non-
8 alcoholic beverages, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, as well
9 as hygienic products and household consumer products necessary for personal hygiene or the
10 habitability, sanitation, or operation of residences” are deemed to expressly fall within this
11 protected category of “Essential” businesses. So too are “auto-supply” stores, businesses “that
12 provide food, shelter, and social services, and other necessities of life for economically
13 disadvantaged or otherwise needy individuals,” landscapers, gardeners, “[b]icycle repair and
14 supply shops,” and hardware stores. But not firearm and ammunition retailers? Particularly
15 during or in anticipation of a further time of crisis?

16 The answer may be found, again, in the words of Defendant Mayor Liccardo: “We are
17 having panic buying right now for food. The one thing we cannot have is panic buying of guns.”
18 (Lee Decl., **Ex. 6**.) So there we have it: even if firearms and ammunition are essential,
19 Defendants simply *cannot* allow people to have them now, no matter how essential they may be.

20 Defendants’ Orders, and their enforcement of them, lead to the conclusion that
21 Defendants’ Orders, policies, practices, customs, and enforcement actions are arbitrary and
22 capricious, overbroad, unconstitutionally vague, and violate Plaintiffs’ Due Process rights.
23 Putting aside Defendants’ expressed dislike of firearms and those who sell and buy them, the
24 Retailer Plaintiffs fall within any reasonable definition of “Essential Businesses,” because they
25 are establishments engaged in the retail sale of household consumer products necessary for
26 maintaining the safety of individuals, like individual Plaintiffs and others similarly situated who
27 are prevented from attending Retailer Plaintiffs’ establishments to purchase or transfer firearms,
28 ammunition, accessories, and components necessary—and constitutionally protected—for the

1 defense of their homes, selves, and others.

2 Moreover, Retailer Plaintiffs are essential service providers who provide statutorily
3 mandated services, such as the processing of background checks, administration of waiting
4 period laws, administration of FSC tests, and “safe handling” demonstrations, all of which must
5 be conducted *in person* pursuant to State laws and regulations.

6 And Retailer Plaintiffs’ businesses provide goods to residences and essential businesses.
7 They are, in every meaningful sense, “essential,” as CISA has recognized. But here, Defendants’
8 arbitrary and capricious classification scheme is made even more constitutionally suspect
9 because it bypassed the constitutionally authorized method for enacting laws. Legislatures are
10 supposed to enact laws; executive agencies are supposed to enforce them. Even had a legislative
11 body made these irrational and constitutionally repugnant rules, after due deliberation and
12 debate, they would be invalid. And while the constitutional harms are not made more (or less)
13 illegal because of the violation of separation of powers, that harm arises from both the substance
14 of unconstitutional policies, and also from the process that gave rise to them. Defendants here,
15 acting unilaterally, deserve no deference or legislative benefit of the doubt.

16 Moreover, Defendants’ Orders and enforcement actions are unconstitutionally vague,
17 because they do not define critical terms, encompass protected activity, omit definitions of key
18 terms, operate as complete bans, do not require specific intent to commit an unlawful act, and
19 permit and encourage arbitrary and erratic arrests and convictions with too much discretion
20 committed to law enforcement. “As generally stated, the void-for-vagueness doctrine requires
21 that a penal statute define the criminal offense with sufficient definiteness that ordinary people
22 can understand what conduct is prohibited and in a manner that does not encourage arbitrary and
23 discriminatory enforcement.” *Gonzales v. Carhart*, 550 U.S. 124, 148–49 (2007) (quoting
24 *Kolender v. Lawson*, 461 U.S. 352, 357 (1983)). The breadth and built-in vagueness here run
25 afoul of the due process clause because the subject Orders fail to give adequate guidance to those
26 who would be law-abiding, to advise them of the nature of the offense with which they may be
27 charged, or to guide courts in trying those who are accused of violating such orders.

28 “Vague laws offend several important values. First, because we assume that man is free

1 to steer between lawful and unlawful conduct, we insist that laws give the person of ordinary
2 intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly.
3 Vague laws may trap the innocent by not providing fair warning. Second, if arbitrary and
4 discriminatory enforcement is to be prevented, laws must provide explicit standards for those
5 who apply them. A vague law impermissibly delegates basic policy matters to policemen, judges,
6 and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary
7 and discriminatory applications.” *Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc.*,
8 455 U.S. 489, 498 (1982) (quoting *Grayned v. City of Rockford*, 408 U.S. 104, 108-109 (1972));
9 accord *United States v. Williams*, 553 U.S. 285, 304 (2008) (“[a] conviction fails to comport with
10 due process if the statute under which it is obtained fails to provide a person of ordinary
11 intelligence fair notice of what is prohibited, or is so standardless that it authorizes or encourages
12 seriously discriminatory enforcement.”).

13 And thus, Plaintiffs will prevail in challenging not only the underlying orders and
14 enforcement policies for their blatant violations of enumerated constitutional rights, but also in
15 the manner in which the policies were enacted. It is a bedrock principle of our constitutional
16 order that legislatures may not enact vague and ambiguous laws that give unfettered discretion to
17 executive agencies to ‘figure out’ the details later, while also ‘passing the buck’ to those
18 executive agencies to make and enforce the policies that impact the people’s lives, liberty, and
19 property. Defendants’ enforcement of vague and arbitrary County Orders violates fundamental
20 precepts of due process, cannot stand, and must be enjoined.

21 **C. THE DESTRUCTION OF CONSTITUTIONAL RIGHTS CONSTITUTES IRREPARABLE INJURY.**

22 “It is well established that the deprivation of constitutional rights ‘unquestionably
23 constitutes irreparable injury.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting
24 *Elrod v. Burns*, 427 U.S. 347, 373 (1976)); 11A Charles Alan Wright et al., *Federal Practice and*
25 *Procedure* § 2948.1 (2d ed. 1995) (“When an alleged deprivation of a constitutional right is
26 involved, most courts hold that no further showing of irreparable injury is necessary”);
27 *Norsworthy v. Beard*, 87 F.Supp.3d 1164, 1193 (N.D.Cal. 2015) (“Irreparable harm is presumed
28 if plaintiffs are likely to succeed on the merits because a deprivation of constitutional rights

1 always constitutes irreparable harm.”); *Monterey Mech. Co. v. Wilson*, 125 F.3d 702, 715 (9th
2 Cir. 1997) (an alleged constitutional infringement will often alone constitute irreparable harm);
3 *Duncan*, 265 F.Supp.3d at 1135 (“The same is true for Second Amendment rights. Their loss
4 constitutes irreparable injury.... The right to keep and bear arms protects tangible and intangible
5 interests which cannot be compensated by damages.... ‘The right to bear arms enables one to
6 possess not only the means to defend oneself but also the self-confidence—and psychic
7 comfort—that comes with knowing one could protect oneself if necessary.’”) (citing *Grace v.*
8 *District of Columbia*, 187 F.Supp.3d 124, 150 (D.D.C. 2016)). See also, *Ezell*, 651 F.3d at 699–
9 700 (a deprivation of the right to arms is “irreparable,” with “no adequate remedy at law”).

10 Plaintiffs have established a strong likelihood of success based on clear violations of their
11 right to keep and bear arms under the Second and Fourteenth Amendments to the United States
12 Constitution, and their right under the Fifth and Fourteenth Amendments. “As with irreparable
13 injury, when a plaintiff establishes ‘a likelihood that Defendants’ policy violates the U.S.
14 Constitution, Plaintiffs have also established that both the public interest and the balance of the
15 equities favor a preliminary injunction.” *Ms. L. v. U.S. Immigration and Customs Enforcement*,
16 310 F.Supp.3d 1133, 1147 (S.D. Cal. 2018) (quoting *Arizona Dream Act Coalition v. Brewer*,
17 757 F.3d 1053, 1069 (9th Cir. 2014); see also *Rodriguez v. Robbins*, 715 F.3d 1127, 1146 (9th
18 Cir. 2013) (“Generally, public interest concerns are implicated when a constitutional right has
19 been violated, because all citizens have a stake in upholding the Constitution.”) Because
20 Plaintiffs have made such a showing, both the public interest and the balance of the equities
21 weigh in favor of and compel the relief they seek of a temporary restraining order and
22 preliminary injunction.

23 Finally, Plaintiffs respectfully disagree with the Court’s decision in *Brandy v. Villanueva*,
24 C.D. Case No. 2:20-cv-02874-AB-AK, denying a temporary restraining order against similar
25 orders [ECF No. 29]. In that matter, the Court failed to apply categorical or strict scrutiny, and
26 improperly applied intermediate scrutiny, and was incorrect for the reasons set forth herein.

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IV. CONCLUSION

There is no dispute that the coronavirus pandemic is serious in nature. Plaintiffs certainly do not intend to say or imply otherwise. But despite the abrupt way that the coronavirus has imposed itself upon our society, fundamental human rights cannot be closed off. This is especially true of the right to keep and bear arms for self-defense. And it is the true test of our national character as a People that we adhere to constitutional principles, without fear, and directly in the face of such dangers. We must pass this test, and every other test that challenges our resolve to honor our founding principles. For these reasons, and as set forth above, Plaintiffs respectfully request that this Court grant their Application for a Temporary Restraining Order or, in the Alternative, Motion for Preliminary Injunction and protect the fundamental, individual rights at stake in this important case.

Dated: April 10, 2020

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/s/ George M. Lee

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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JANICE ALTMAN, an individual, et al.,

Plaintiffs,

vs.

COUNTY OF SANTA CLARA,
CALIFORNIA, et al.

Defendants.

Case No. 4:20-cv-02180-JST

**DECLARATION OF GEORGE M. LEE IN
SUPPORT OF PLAINTIFFS' APPLICATION
FOR TEMPORARY RESTRAINING ORDER,
AND/OR, IN THE ALTERNATIVE, ISSUANCE
OF A PRELIMINARY INJUNCTION**

Date: TBA
Time: TBA
Location: TBA
Judge: Hon. Jon S. Tigar

First Amended Complaint Filed Apr. 10,
2020

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1 against businesses open under shelter order”, March 18, 2020.

2 9. Attached hereto as **Exhibit 7** is a true and correct copy of the County of Alameda
3 Public Health Order, dated March 16, 2020.

4 10. Attached hereto as **Exhibit 8** is a true and correct copy of the County of Alameda
5 Health Order, dated March 31, 2020, No. 20-04.

6 11. Attached hereto as **Exhibit 9** is a true and correct copy of the online article, East
7 Bay Times, “Coronavirus Bay Area cities crack down on gun stores; L.A. sheriff goes back to
8 ordering gun sales there stopped”, dated March 26, 2020.

9 12. Attached hereto as **Exhibit 10** is a true and correct copy of the online article,
10 Business Insider, “Gov. Gavin Newsom is letting California’s 58 counties each decide if gun
11 stores can stay open during the coronavirus shutdown as people line up to panic-buy firearms”,
12 dated March 26, 2020.

13 13. Attached hereto as **Exhibit 11** is a true and correct copy of the San Mateo County
14 Health, Policy & Planning, Order dated March 16, 2020.

15 14. Attached hereto as **Exhibit 12** is a true and correct copy of the County of Contra
16 Costa Health Services Order, dated March 16, 2020.

17 15. Attached hereto as **Exhibit 13** is a true and correct copy of the County of Contra
18 Costa Health Services, Order No. HO-COVID19-03, dated March 31, 2020.

19 16. Attached hereto as **Exhibit 14** is a true and correct copy of the Santa Clara
20 County Public Health, “Bay Area Health Officers Issue Updated Stay-at-Home Order with New
21 Restrictions to Last Through May 3”, dated March 31, 2020.

22 17. Attached hereto as **Exhibit 15** is a true and correct copy of the Department of
23 Homeland Security, “Guidance on the Essential Critical Infrastructure Workforce”, dated March
24 28, 2020.

25 I declare under penalty of perjury that the foregoing is true and correct.

26
27 Dated: April 10, 2020

28


GEORGE M. LEE

**EXHIBITS
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<u>Exhibit</u>	<u>Description</u>	<u>Page(s)</u>
1	Executive Department, State of California: Executive Order N-33-20	0001-0003
2	County of Santa Clara, Public Health Department: Order dated March 16, 2020	0004-0011
3	Santa Clara County Public Health: “Order of the Health Officer of the County of Santa Clara”, Order dated March 31, 2020	0012-0039
4	Mercury News, “Bay Area courts, authorities ramp up release of inmates to stem COVID-19 risks in jails”, dated March 19, 2020	0040-0045
5	Screenshot of Reed’s Indoor Range, Shooting and Training Facility website	0046-0048
6	Mercury News, “Coronavirus: San Jose orders gun store to close in one of the first enforcement against businesses open under shelter order”, March 18, 2020	0049-0053
7	County of Alameda Health Order, dated March 16, 2020	0054-0061
8	County of Alameda Health Order, dated March 31, 2020, No. 20-04	0062-0077
9	East Bay Times, “Coronavirus Bay Area cities crack down on gun stores; L.A. sheriff goes back to ordering gun sales there stopped”, dated March 26, 2020	0078-0082
10	Business Insider, “Gov. Gavin Newsom is letting California’s 58 counties each decide if gun stores can stay open during the coronavirus shutdown as people line up to panic-buy firearms”, dated March 26, 2020	0083-0088
11	San Mateo County Health, Policy & Planning, Order dated March 16, 2020	0089-0096
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<u>Exhibit</u>	<u>Description</u>	<u>Page(s)</u>
13	Contra Costa Health Services, Order No. HO-COVID19-03, dated March 31, 2020	0104-0117
14	Santa Clara County Public Health, “Bay Area Health Officers Issue Updated Stay-at-Home Order with New Restrictions to Last Through May 3”, dated March 31, 2020	0118-0122
15	Department of Homeland Security, “Guidance on the Essential Critical Infrastructure Workforce”, dated March 28, 2020	0123-0125

EXHIBIT "1"

**EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA**

EXECUTIVE ORDER N-33-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS in a short period of time, COVID-19 has rapidly spread throughout California, necessitating updated and more stringent guidance from federal, state, and local public health officials; and

WHEREAS for the preservation of public health and safety throughout the entire State of California, I find it necessary for all Californians to heed the State public health directives from the Department of Public Health.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8627, and 8665 do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

- 1) To preserve the public health and safety, and to ensure the healthcare delivery system is capable of serving all, and prioritizing those at the highest risk and vulnerability, all residents are directed to immediately heed the current State public health directives, which I ordered the Department of Public Health to develop for the current statewide status of COVID-19. Those directives are consistent with the March 19, 2020, Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response, found at: <https://covid19.ca.gov/>. Those directives follow:

ORDER OF THE STATE PUBLIC HEALTH OFFICER
March 19, 2020

To protect public health, I as State Public Health Officer and Director of the California Department of Public Health order all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors, as outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>. In addition, and in consultation with the Director of the Governor's Office of Emergency Services, I may designate additional sectors as critical in order to protect the health and well-being of all Californians.

Pursuant to the authority under the Health and Safety Code 120125, 120140, 131080, 120130(c), 120135, 120145, 120175 and 120150, this order is to go into effect immediately and shall stay in effect until further notice.

The federal government has identified 16 critical infrastructure sectors whose assets, systems, and networks, whether physical or virtual, are considered so vital to the United States that their incapacitation or

destruction would have a debilitating effect on security, economic security, public health or safety, or any combination thereof. I order that Californians working in these 16 critical infrastructure sectors may continue their work because of the importance of these sectors to Californians' health and well-being.

This Order is being issued to protect the public health of Californians. The California Department of Public Health looks to establish consistency across the state in order to ensure that we mitigate the impact of COVID-19. Our goal is simple, we want to bend the curve, and disrupt the spread of the virus.

The supply chain must continue, and Californians must have access to such necessities as food, prescriptions, and health care. When people need to leave their homes or places of residence, whether to obtain or perform the functions above, or to otherwise facilitate authorized necessary activities, they should at all times practice social distancing.

- 2) The healthcare delivery system shall prioritize services to serving those who are the sickest and shall prioritize resources, including personal protective equipment, for the providers providing direct care to them.
- 3) The Office of Emergency Services is directed to take necessary steps to ensure compliance with this Order.
- 4) This Order shall be enforceable pursuant to California law, including, but not limited to, Government Code section 8665.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have
hereunto set my hand and caused
the Great Seal of the State of
California to be affixed this 19th day
of March 2020.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

EXHIBIT "2"

County of Santa Clara
Public Health Department

Health Officer
976 Lenzen Avenue, 2nd Floor
San José, CA 95126
408.792.3798



**ORDER OF THE HEALTH OFFICER
OF THE COUNTY OF SANTA CLARA DIRECTING
ALL INDIVIDUALS LIVING IN THE COUNTY TO SHELTER AT THEIR
PLACE OF RESIDENCE EXCEPT THAT THEY MAY LEAVE TO PROVIDE
OR RECEIVE CERTAIN ESSENTIAL SERVICES OR ENGAGE IN CERTAIN
ESSENTIAL ACTIVITIES AND WORK FOR ESSENTIAL BUSINESSES AND
GOVERNMENTAL SERVICES; EXEMPTING INDIVIDUALS
EXPERIENCING HOMELESSNESS FROM THE SHELTER IN PLACE
ORDER BUT URGING THEM TO FIND SHELTER AND GOVERNMENT
AGENCIES TO PROVIDE IT; DIRECTING ALL BUSINESSES AND
GOVERNMENTAL AGENCIES TO CEASE NON-ESSENTIAL OPERATIONS
AT PHYSICAL LOCATIONS IN THE COUNTY; PROHIBITING ALL NON-
ESSENTIAL GATHERINGS OF ANY NUMBER OF INDIVIDUALS; AND
ORDERING CESSATION OF ALL NON-ESSENTIAL TRAVEL**

DATE OF ORDER: MARCH 16, 2020

Please read this Order carefully. Violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both. (California Health and Safety Code § 120295, *et seq.*)

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040, 101085, AND 120175, THE HEALTH OFFICER OF THE COUNTY OF SANTA CLARA ("HEALTH OFFICER") ORDERS:

1. The intent of this Order is to ensure that the maximum number of people self-isolate in their places of residence to the maximum extent feasible, while enabling essential services to continue, to slow the spread of COVID-19 to the maximum extent possible. When people need to leave their places of residence, whether to obtain or perform vital services, or to otherwise facilitate authorized activities necessary for continuity of social and commercial life, they should at all times reasonably possible comply with Social Distancing Requirements as defined in Section 10 below. All provisions of this Order should be interpreted to effectuate this intent. Failure to comply with any of the provisions of this Order constitutes an imminent threat to public health.
2. All individuals currently living within Santa Clara County (the "County") are ordered to shelter at their place of residence. To the extent individuals are using shared or outdoor spaces, they must at all times as reasonably possible maintain social distancing of at least six feet from

Board of Supervisors: Mike Wasserman, Cindy Chavez, Dave Cortese, Susan Ellenberg, S. Joseph Simitian
County Executive: Jeffrey V. Smith

any other person when they are outside their residence. All persons may leave their residences only for Essential Activities, Essential Governmental Functions, or to operate Essential Businesses, all as defined in Section 10. Individuals experiencing homelessness are exempt from this Section, but are strongly urged to obtain shelter, and governmental and other entities are strongly urged to make such shelter available as soon as possible and to the maximum extent practicable (and to utilize Social Distancing Requirements in their operation).

3. All businesses with a facility in the County, except Essential Businesses as defined below in Section 10, are required to cease all activities at facilities located within the County except Minimum Basic Operations, as defined in Section 10. For clarity, businesses may also continue operations consisting exclusively of employees or contractors performing activities at their own residences (i.e., working from home). All Essential Businesses are strongly encouraged to remain open. To the greatest extent feasible, Essential Businesses shall comply with Social Distancing Requirements as defined in Section 10 below, including, but not limited to, when any customers are standing in line.
4. All public and private gatherings of any number of people occurring outside a household or living unit are prohibited, except for the limited purposes as expressly permitted in Section 10. Nothing in this Order prohibits the gathering of members of a household or living unit.
5. All travel, including, but not limited to, travel on foot, bicycle, scooter, motorcycle, automobile, or public transit, except Essential Travel and Essential Activities as defined below in Section 10, is prohibited. People must use public transit only for purposes of performing Essential Activities or to travel to and from work to operate Essential Businesses or maintain Essential Governmental Functions. People riding on public transit must comply with Social Distancing Requirements as defined in Section 10 below, to the greatest extent feasible. This Order allows travel into or out of the County to perform Essential Activities, operate Essential Businesses, or maintain Essential Governmental Functions.
6. This Order is issued based on evidence of increasing occurrence of COVID-19 within the County and throughout the Bay Area, scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically, and evidence that the age, condition, and health of a significant portion of the population of the County places it at risk for serious health complications, including death, from COVID-19. Due to the outbreak of the COVID-19 virus in the general public, which is now a pandemic according to the World Health Organization, there is a public health emergency throughout the County. Making the problem worse, some individuals who contract the COVID-19 virus have no symptoms or have mild symptoms, which means they may not be aware they carry the virus. Because even people without symptoms can transmit the disease, and because evidence shows the disease is easily spread, gatherings can result in preventable transmission of the virus. The scientific evidence shows that at this stage of the emergency, it is essential to slow virus transmission as much as possible to protect the most vulnerable and to prevent the health care system from being overwhelmed. One proven way to slow the transmission is to limit interactions among people to the greatest extent practicable. By reducing the spread of the COVID-19 virus, this Order helps preserve critical and limited

healthcare capacity in the County.

7. This Order also is issued in light of the existence of 123 cases of COVID-19 in the County, as well as at least 258 confirmed cases and at least three deaths in the seven Bay Area jurisdictions jointly issuing this Order, as of 5 p.m. on March 15, 2020, including a significant and increasing number of suspected cases of community transmission and likely further significant increases in transmission. Widespread testing for COVID-19 is not yet available but is expected to increase in the coming days. This Order is necessary to slow the rate of spread and the Health Officer will re-evaluate it as further data becomes available.
8. This Order is issued in accordance with, and incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom, the February 3, 2020 Proclamation by the Director of Emergency Services Declaring the Existence of a Local Emergency in the County, the February 3, 2020 Declaration of Local Health Emergency Regarding Novel Coronavirus 2019 (COVID-19) issued by the Health Officer, the February 10, 2020 Resolution of the Board of Supervisors of the County of Santa Clara Ratifying and Extending the Declaration of a Local Health Emergency, and the February 10, 2020 Resolution of the Board of Supervisors of the County of Santa Clara Ratifying and Extending the Proclamation of a Local Emergency.
9. This Order comes after the release of substantial guidance from the County Health Officer, the Centers for Disease Control and Prevention, the California Department of Public Health, and other public health officials throughout the United States and around the world, including a variety of prior orders to combat the spread and harms of COVID-19. The Health Officer will continue to assess the quickly evolving situation and may modify or extend this Order, or issue additional Orders, related to COVID-19.
10. Definitions and Exemptions.
 - a. For purposes of this Order, individuals may leave their residence only to perform any of the following “Essential Activities.” But people at high risk of severe illness from COVID-19 and people who are sick are urged to stay in their residence to the extent possible except as necessary to seek medical care.
 - i. To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members (including, but not limited to, pets), such as, by way of example only and without limitation, obtaining medical supplies or medication, visiting a health care professional, or obtaining supplies they need to work from home.
 - ii. To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example only and without limitation, canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products, and products necessary to maintain the safety, sanitation, and essential operation of residences.

Order of the County Health Officer
to Shelter in Place

- iii. To engage in outdoor activity, provided the individuals comply with Social Distancing Requirements as defined in this Section, such as, by way of example and without limitation, walking, hiking, or running.
 - iv. To perform work providing essential products and services at an Essential Business or to otherwise carry out activities specifically permitted in this Order, including Minimum Basic Operations.
 - v. To care for a family member or pet in another household.
- b. For purposes of this Order, individuals may leave their residence to work for or obtain services at any “Healthcare Operations” including hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers, or any related and/or ancillary healthcare services. “Healthcare Operations” also includes veterinary care and all healthcare services provided to animals. This exemption shall be construed broadly to avoid any impacts to the delivery of healthcare, broadly defined. “Healthcare Operations” does not include fitness and exercise gyms and similar facilities.
- c. For purposes of this Order, individuals may leave their residence to provide any services or perform any work necessary to the operations and maintenance of “Essential Infrastructure,” including, but not limited to, public works construction, construction of housing (in particular affordable housing or housing for individuals experiencing homelessness), airport operations, water, sewer, gas, electrical, oil refining, roads and highways, public transportation, solid waste collection and removal, internet, and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services), provided that they carry out those services or that work in compliance with Social Distancing Requirements as defined this Section, to the extent possible.
- d. For purposes of this Order, all first responders, emergency management personnel, emergency dispatchers, court personnel, and law enforcement personnel, and others who need to perform essential services are categorically exempt from this Order. Further, nothing in this Order shall prohibit any individual from performing or accessing “Essential Governmental Functions,” as determined by the governmental entity performing those functions. Each governmental entity shall identify and designate appropriate employees or contractors to continue providing and carrying out any Essential Governmental Functions. All Essential Governmental Functions shall be performed in compliance with Social Distancing Requirements as defined in this Section, to the extent possible.
- e. For the purposes of this Order, covered businesses include any for-profit, non-profit, or educational entities, regardless of the nature of the service, the function they perform, or its corporate or entity structure.


- f. For the purposes of this Order, “Essential Businesses” means:
- i. Healthcare Operations and Essential Infrastructure;
 - ii. Grocery stores, certified farmers’ markets, farm and produce stands, supermarkets, food banks, convenience stores, and other establishments engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products (such as cleaning and personal care products). This includes stores that sell groceries and also sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences;
 - iii. Food cultivation, including farming, livestock, and fishing;
 - iv. Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals;
 - v. Newspapers, television, radio, and other media services;
 - vi. Gas stations and auto-supply, auto-repair, and related facilities;
 - vii. Banks and related financial institutions;
 - viii. Hardware stores;
 - ix. Plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, Essential Activities, and Essential Businesses;
 - x. Businesses providing mailing and shipping services, including post office boxes;
 - xi. Educational institutions—including public and private K-12 schools, colleges, and universities—for purposes of facilitating distance learning or performing essential functions, provided that social distancing of six-feet per person is maintained to the greatest extent possible;
 - xii. Laundromats, drycleaners, and laundry service providers;
 - xiii. Restaurants and other facilities that prepare and serve food, but only for delivery or carry out. Schools and other entities that typically provide free food services to students or members of the public may continue to do so under this Order on the condition that the food is provided to students or members of the public on a pick-up and take-away basis only. Schools and other entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or at any other gathering site;
 - xiv. Businesses that supply products needed for people to work from home;
 - xv. Businesses that supply other essential businesses with the support or supplies necessary to operate;
 - xvi. Businesses that ship or deliver groceries, food, goods or services directly to residences;
 - xvii. Airlines, taxis, and other private transportation providers providing transportation services necessary for Essential Activities and other purposes expressly authorized in this Order;
 - xviii. Home-based care for seniors, adults, or children;
 - xix. Residential facilities and shelters for seniors, adults, and children;

- xx. Professional services, such as legal or accounting services, when necessary to assist in compliance with legally mandated activities;
- xxi. Childcare facilities providing services that enable employees exempted in this Order to work as permitted. To the extent possible, childcare facilities must operate under the following mandatory conditions:
 - 1. Childcare must be carried out in stable groups of 12 or fewer (“stable” means that the same 12 or fewer children are in the same group each day).
 - 2. Children shall not change from one group to another.
 - 3. If more than one group of children is cared for at one facility, each group shall be in a separate room. Groups shall not mix with each other.
 - 4. Childcare providers shall remain solely with one group of children.
- g. For the purposes of this Order, “Minimum Basic Operations” include the following, provided that employees comply with Social Distancing Requirements as defined this Section, to the extent possible, while carrying out such operations:
 - i. The minimum necessary activities to maintain the value of the business’s inventory, ensure security, process payroll and employee benefits, or for related functions.
 - ii. The minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences.
- h. For the purposes of this Order, “Essential Travel” includes travel for any of the following purposes. Individuals engaged in any Essential Travel must comply with all Social Distancing Requirements as defined in this Section below.
 - i. Any travel related to the provision of or access to Essential Activities, Essential Governmental Functions, Essential Businesses, or Minimum Basic Operations.
 - ii. Travel to care for elderly, minors, dependents, persons with disabilities, or other vulnerable persons.
 - iii. Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services.
 - iv. Travel to return to a place of residence from outside the jurisdiction.
 - v. Travel required by law enforcement or court order.
 - vi. Travel required for non-residents to return to their place of residence outside the County. Individuals are strongly encouraged to verify that their transportation out of the County remains available and functional prior to commencing such travel.
- i. For purposes of this Order, residences include hotels, motels, shared rental units and similar facilities.
- j. For purposes of this Order, “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.


11. Pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Order. The violation of any provision of this Order constitutes an imminent threat to public health.
12. This Order shall become effective at 12:01 a.m. on March 17, 2020 and will continue to be in effect until 11:59 p.m. on April 7, 2020, or until it is extended, rescinded, superseded, or amended in writing by the Health Officer.
13. Copies of this Order shall promptly be: (1) made available at the County Government Center at 70 W. Hedding Street, San José, California; (2) posted on the County Public Health Department website (www.sccphd.org); and (3) provided to any member of the public requesting a copy of this Order.
14. If any provision of this Order to the application thereof to any person or circumstance is held to be invalid, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

IT IS SO ORDERED:


Sara H. Cody, M.D.
Health Officer of the County of Santa Clara

Dated: 3/16/20

Approved as to form and legality:


James R. Williams
County Counsel

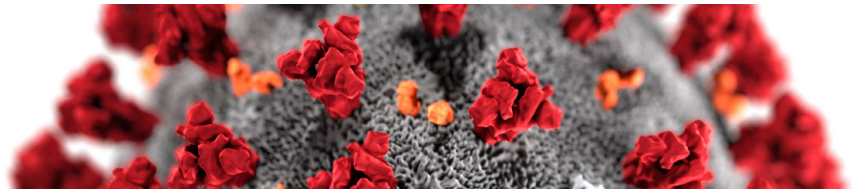
Dated: 3/16/2020

Order of the County Health Officer
to Shelter in Place

EXHIBIT "3"

How Do I...?

Novel Coronavirus (COVID-19)



[Home](#) [Disease Information](#) [Novel Coronavirus \(COVID-19\)](#)

Order of the Health Officer of the County of Santa Clara

ORDER OF THE HEALTH OFFICER OF THE
COUNTY OF SANTA CLARA DIRECTING ALL
INDIVIDUALS LIVING IN THE COUNTY TO
CONTINUE SHELTERING AT THEIR PLACE OF
RESIDENCE EXCEPT FOR ESSENTIAL NEEDS;
CONTINUING TO EXEMPT HOMELESS
INDIVIDUALS FROM THE ORDER BUT URGING
GOVERNMENT AGENCIES TO PROVIDE THEM
SHELTER AND HAND SANITATION FACILITIES;
RESTRICTING ACCESS TO RECREATION AREAS;
REQUIRING ESSENTIAL BUSINESSES TO
IMPLEMENT SOCIAL DISTANCING PROTOCOLS;
CLARIFYING AND FURTHER LIMITING
ESSENTIAL BUSINESS ACTIVITIES, INCLUDING
CONSTRUCTION; AND DIRECTING ALL
BUSINESSES AND GOVERNMENTAL

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Quick Links

OPERATIONS TO FURTHER CEASE NON-ESSENTIAL OPERATIONS

If you think you
are sick

DATE OF ORDER: MARCH 31, 2020

Donations

Please read this Order carefully. Violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both. (California Health and Safety Code § 120295, *et seq.*; Cal. Penal Code §§ 69, 148(a)(1); Santa Clara County Ordinance Code § A1-28.)

Updates on
County Services

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040, 101085, AND 120175, THE HEALTH OFFICER OF THE COUNTY OF SANTA CLARA ("HEALTH OFFICER") ORDERS:

Information for
Healthcare
Providers

1. This Order supersedes the March 16, 2020 Order of the Health Officer directing all individuals to shelter in place ("Prior Shelter Order"). This Order clarifies, strengthens, and extends certain terms of the Prior Shelter Order to increase social distancing and reduce person-to-person contact in order to further slow transmission of Novel Coronavirus Disease 2019 ("COVID-19"). As of the effective date and time of this Order set forth in Section 16 below, all individuals, businesses, and government agencies in the County of Santa Clara ("County") are required to follow the provisions of this Order.

2-1-1 for
Coronavirus
Questions

CDPH Novel
Coronavirus Info

CDC Novel
Coronavirus
Updates

2. The intent of this Order is to ensure that the maximum number of people shelter in their places of residence to the maximum extent feasible to slow the spread of COVID-19 and mitigate the impact on delivery of critical healthcare services to those in need. All provisions of this Order must be interpreted to

effectuate this intent. Failure to comply with any of the provisions of this Order constitutes an imminent threat and menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment, or both.

3. All individuals currently living within the County are ordered to shelter at their place of residence. They may leave their residence only for Essential Activities, Essential Governmental Functions, Essential Travel, to work for Essential Businesses, or to perform Minimum Basic Operations for non-essential businesses, all as defined in Section 13. Individuals experiencing homelessness are exempt from this Section, but are strongly urged to obtain shelter, and governmental and other entities are strongly urged to, as soon as possible, make such shelter available and provide handwashing or hand sanitation facilities to persons who continue experiencing homelessness.
4. When people need to leave their place of residence for the limited purposes allowed in this Order, they must strictly comply with Social Distancing Requirements as defined in Section 13.k, except as expressly provided in this Order.
5. All businesses with a facility in the County, except Essential Businesses, as defined in Section 13.f, are required to cease all activities at facilities located within the County except Minimum Basic Operations, as defined in Section 13.g. For clarity, all businesses may continue operations consisting exclusively of owners, employees, volunteers, or contractors performing activities at their own residences (i.e., working from home).

All Essential Businesses are strongly encouraged to remain open. But Essential Businesses are directed to maximize the number of employees who work from home. Essential Businesses may only assign those employees who cannot perform their job duties from home to work outside the home. All Essential Businesses shall prepare, post, and implement a Social Distancing Protocol at each of their facilities at which they are maintaining operations, as specified in Section 13.h. Businesses that include an Essential Business component at their facilities alongside non-essential components must, to the extent feasible, scale down their operations to the Essential Business component only; provided, however, that mixed retail businesses that are otherwise allowed to operate under this Order may continue to stock and sell non-essential products. Essential Businesses must follow industry-specific guidance issued by the Health Officer related to COVID-19.

6. All public and private gatherings of any number of people occurring outside a single household or living unit are prohibited, except for the limited purposes expressly permitted in this Order. Nothing in this Order prohibits members of a single household or living unit from engaging in Essential Travel or Essential Activities together.
7. All travel, including, but not limited to, travel on foot, bicycle, scooter, motorcycle, automobile, or public transit, except Essential Travel, as defined below in Section 13.i, is prohibited. People may use public transit only for purposes of performing Essential Activities or to travel to and from work to operate Essential Businesses, maintain Essential Governmental Functions, or to perform

Minimum Basic Operations at non-essential businesses. Transit agencies and people riding on public transit must comply with Social Distancing Requirements, as defined in Section 13.k, to the greatest extent feasible. This Order allows travel into or out of the County only to perform Essential Activities, operate Essential Businesses, maintain Essential Governmental Functions, or perform Minimum Basic Operations at non-essential businesses.

8. This Order is issued based on evidence of increasing occurrence of COVID-19 within the County and throughout the Bay Area, scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically, and evidence that the age, condition, and health of a significant portion of the population of the County places it at risk for serious health complications, including death, from COVID-19. Due to the outbreak of the COVID-19 disease in the general public, which is now a pandemic according to the World Health Organization, there is a public health emergency throughout the County. Making the problem worse, some individuals who contract the virus causing the COVID-19 disease have no symptoms or have mild symptoms, which means they may not be aware they carry the virus and are transmitting it to others. Because even people without symptoms can transmit the infection, and because evidence shows the infection is easily spread, gatherings and other interpersonal interactions can result in preventable transmission of the virus. This public health emergency has substantially worsened since the

County issued the Prior Shelter Order on March 16, 2020, with a significant escalation in the number of positive cases, hospitalizations, and deaths, and increasing strain on health care resources. At the same time, evidence suggests that the restrictions on mobility and social distancing requirements imposed by the Prior Shelter Order are slowing the rate of increase in community transmission and confirmed cases by limiting interactions among people, consistent with scientific evidence of the efficacy of similar measures in other parts of the country and world.

The scientific evidence shows that at this stage of the emergency, it remains essential to continue to slow virus transmission as much as possible to protect the most vulnerable, to prevent the health care system from being overwhelmed, and to prevent deaths. Extension of the Prior Shelter Order and strengthening of its restrictions are necessary to further reduce the spread of the COVID-19 disease, preserving critical and limited healthcare capacity in the County and advancing toward a point in the public health emergency where transmission can be controlled.

9. This Order is also issued in light of the existence, as of March 29, 2020, of 848 cases of COVID-19 in the County, as well as at least 2,092 confirmed cases (up from 258 confirmed cases on March 15, 2020, just before the Prior Shelter Order) and at least 51 deaths (up from three deaths on March 15, 2020) in the seven Bay Area jurisdictions jointly issuing this Order, including a significant and increasing number of suspected cases of community transmission and likely further significant increases in transmission. This Order is necessary to slow the rate of spread, and the

Health Officer will re-evaluate it as further data becomes available.

10. This Order is issued in accordance with, and incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom, the February 3, 2020 Proclamation by the Director of Emergency Services Declaring the Existence of a Local Emergency in the County, the February 3, 2020 Declaration of Local Health Emergency Regarding Novel Coronavirus 2019 (COVID-19) issued by the Health Officer, the February 10, 2020 Resolution of the Board of Supervisors of the County of Santa Clara Ratifying and Extending the Declaration of a Local Health Emergency, and the February 10, 2020 Resolution of the Board of Supervisors of the County of Santa Clara Ratifying and Extending the Proclamation of a Local Emergency.
11. This Order is issued in light of evidence that the Prior Shelter Order has been generally effective in increasing social distancing, but that at this time additional restrictions are necessary to further mitigate the rate of transmission of COVID-19, to prevent the health care system from being overwhelmed, and prevent death. This Order comes after the release of substantial guidance from the County Health Officer, the Centers for Disease Control and Prevention, the California Department of Public Health, and other public health officials throughout the United States and around the world, including an increasing number of orders imposing similar social distancing requirements and mobility restrictions to combat the spread and harms of COVID-19. The Health Officer will continue to assess the

quickly evolving situation and may modify or extend this Order, or issue additional Orders, related to COVID-19, as changing circumstances dictate.

12. This Order is also issued in light of the March 19, 2020 Order of the State Public Health Officer (the “State Shelter Order”) , which set baseline statewide restrictions on non-residential business activities effective until further notice, as well as the Governor’s March 19, 2020 Executive Order N-33-20 directing California residents to follow the State Shelter Order. The State Shelter Order was complementary to the Prior Shelter Order. This Order adopts in certain respects more stringent restrictions addressing the particular facts and circumstances in this County, which are necessary to control the public health emergency as it is evolving within the County and the Bay Area. Without this tailored set of restrictions that further reduces the number of interactions between persons, scientific evidence indicates that the public health crisis in the County will worsen to the point at which it may overtake available health care resources within the County and increase the death rate. Also, this Order enumerates additional restrictions on non-work-related travel not covered by the State Shelter Order, including limiting such travel to performance of Essential Travel or Essential Activities; sets forth mandatory Social Distancing Requirements for all individuals in the County when engaged in activities outside their residences; and adds a mechanism to ensure that Essential Businesses comply with the Social Distancing Requirements. Where a conflict exists between this Order and any state public health

order related to the COVID-19 pandemic, the most restrictive provision controls. Consistent with California Health and Safety Code section 131080 and the Health Officer Practice Guide for Communicable Disease Control in California, except where the State Health Officer may issue an order expressly directed at this Order and based on a finding that a provision of this Order constitutes a menace to public health, any more restrictive measures in this Order continue to apply and control in this County.

13. Definitions and Exemptions.

a. For the purposes of this Order, individuals may leave their residence only to perform the following “Essential Activities.” But people at high risk of severe illness from COVID-19 and people who are sick are strongly urged to stay in their residence to the extent possible, except as necessary to seek or provide medical care or Essential Governmental Functions. Essential Activities are:

- i. To engage in activities or perform tasks important to their health and safety, or to the health and safety of their family or household members (including pets), such as, by way of example only and without limitation, obtaining medical supplies or medication, or visiting a health care professional.
- ii. To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example

only and without limitation, canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products, products needed to work from home, or products necessary to maintain the habitability, sanitation, and operation of residences.

iii. To engage in outdoor recreation activity, including, by way of example and without limitation, walking, hiking, bicycling, and running, in compliance with Social Distancing Requirements and with the following limitations:

A. Outdoor recreation activity at parks, beaches, and other open spaces must be in conformance with any restrictions on access and use established by the Health Officer, government, or other entity that manages such area to reduce crowding and risk of transmission of COVID-19.

Such restrictions may include, but are not limited to, restricting the number of entrants, closing the area to vehicular access and parking, or closure to all public access;

B. Use of recreational areas with high-touch equipment or that encourage gathering, including, but not limited to, playgrounds, outdoor gym equipment, picnic areas, dog parks, and barbecue

areas, is prohibited outside of residences, and all such areas shall be closed to public access including by signage and, as appropriate, by physical barriers;

C. Use of shared facilities for recreational activities outside of residences, including, but not limited to, golf courses, tennis and pickle ball courts, rock parks, climbing walls, pools, spas, shooting and archery ranges, gyms, disc golf, and basketball courts is prohibited and those areas must be closed for recreational purposes, including by signage and, as appropriate, by physical barriers. Such facilities may be repurposed during the emergency to provide essential services needed to address the COVID-19 pandemic; and

D. Sports or activities that include the use of shared equipment may only be engaged in by members of the same household or living unit.

iv. To perform work for an Essential Business or to otherwise carry out activities specifically permitted in this Order, including Minimum Basic Operations, as defined in this Section.

v. To provide necessary care for a family member or pet in another household who has no other source of care.

- vi. To attend a funeral with no more than 10 individuals present.
 - vii. To move residences, but only if it is not possible to defer an already planned move, if the move is necessitated by safety, sanitation, or habitability reasons, or if the move is necessary to preserve access to shelter. When moving into or out of the Bay Area region, individuals are strongly urged to quarantine for 14 days. To quarantine, individuals should follow the guidance of the United States Centers for Disease Control and Prevention.
- b. For the purposes of this Order, individuals may leave their residence to work for, volunteer at, or obtain services at “Healthcare Operations,” including, without limitation, hospitals, clinics, COVID-19 testing locations, dentists, pharmacies, blood banks and blood drives, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers, or any related and/or ancillary healthcare services. “Healthcare Operations” also includes veterinary care and all healthcare services provided to animals. This exemption for Healthcare Operations shall be construed broadly to avoid any interference with the delivery of healthcare, broadly defined. “Healthcare Operations” excludes fitness and exercise gyms and similar facilities.

- c. For the purposes of this Order, individuals may leave their residence to provide any services or perform any work necessary to the operation and maintenance of “Essential Infrastructure,” including airports, utilities (including water, sewer, gas, and electrical), oil refining, roads and highways, public transportation, solid waste facilities (including collection, removal, disposal, and processing facilities), cemeteries, mortuaries, crematoriums, and telecommunications systems (including the provision of essential global, national, and local infrastructure for internet, computing services, business infrastructure, communications, and web-based services).
- d. For the purposes of this Order, all first responders, emergency management personnel, emergency dispatchers, court personnel, and law enforcement personnel, and others who need to perform essential services are categorically exempt from this Order to the extent they are performing those essential services. Further, nothing in this Order shall prohibit any individual from performing or accessing “Essential Governmental Functions,” as determined by the governmental entity performing those functions in the County. Each governmental entity shall identify and designate appropriate employees, volunteers, or contractors to continue providing and carrying out any Essential Governmental Functions, including the hiring or retention of new employees or contractors to perform such functions. Each governmental entity and its

contractors must employ all necessary emergency protective measures to prevent, mitigate, respond to and recover from the COVID-19 pandemic, and all Essential Governmental Functions shall be performed in compliance with Social Distancing Requirements to the greatest extent feasible.

- e. For the purposes of this Order, a “business” includes any for-profit, non-profit, or educational entity, whether a corporate entity, organization, partnership or sole proprietorship, and regardless of the nature of the service, the function it performs, or its corporate or entity structure.
- f. For the purposes of this Order, “Essential Businesses” are:
 - i. Healthcare Operations and businesses that operate, maintain, or repair Essential Infrastructure;
 - ii. Grocery stores, certified farmers’ markets, farm and produce stands, supermarkets, food banks, convenience stores, and other establishments engaged in the retail sale of unprepared food, canned food, dry goods, non-alcoholic beverages, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, as well as hygienic products and household consumer products necessary for personal hygiene or the habitability, sanitation, or operation of residences. The businesses included in this subparagraph (ii) include establishments that sell multiple categories of products provided that

they sell a significant amount of essential products identified in this subparagraph, such as liquor stores that also sell a significant amount of food.

- iii. Food cultivation, including farming, livestock, and fishing;
- iv. Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals;
- v. Construction, but only of the types listed in this subparagraph below:
 - A. Projects immediately necessary to the maintenance, operation, or repair of Essential Infrastructure;
 - B. Projects associated with Healthcare Operations, including creating or expanding Healthcare Operations, provided that such construction is directly related to the COVID-19 response;
 - C. Affordable housing that is or will be income-restricted, including multi-unit or mixed-use developments containing at least 10% income-restricted units;
 - D. Public works projects if specifically designated as an Essential Governmental Function by the lead governmental agency;

- E. Shelters and temporary housing, but not including hotels or motels;
- F. Projects immediately necessary to provide critical non-commercial services to individuals experiencing homelessness, elderly persons, persons who are economically disadvantaged, and persons with special needs;
- G. Construction necessary to ensure that existing construction sites that must be shut down under this Order are left in a safe and secure manner, but only to the extent necessary to do so; and
- H. Construction or repair necessary to ensure that residences and buildings containing Essential Businesses are safe, sanitary, or habitable to the extent such construction or repair cannot reasonably be delayed;
- vi. Newspapers, television, radio, and other media services;
- vii. Gas stations and auto-supply, auto-repair (including, but not limited to, for cars, trucks, motorcycles and motorized scooters), and automotive dealerships, but only for the purpose of providing auto-supply and auto-repair services (and not, by way of example, car sales or car washes). This subparagraph (vii) does not restrict the on-line purchase of automobiles if

they are delivered to a residence or
Essential Business;

- viii. Bicycle repair and supply shops;
- ix. Banks and related financial institutions;
- x. Service providers that enable residential transactions (including rentals, leases, and home sales), including, but not limited to, real estate agents, escrow agents, notaries, and title companies, provided that appointments and other residential viewings must only occur virtually or, if a virtual viewing is not feasible, by appointment with no more than two visitors at a time residing within the same household or living unit and one individual showing the unit (except that in person visits are not allowed when the occupant is still residing in the residence);
- xi. Hardware stores;
- xii. Plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the habitability, sanitation, and operation of residences and Essential Businesses, but not for cosmetic or other purposes;
- xiii. Arborists, landscapers, gardeners, and similar service professionals, but only to the limited extent necessary to maintain the habitability, sanitation, operation of businesses or residences, or the safety of residents, employees, or the public (such as fire safety or

- tree trimming to prevent a dangerous condition), and not for cosmetic or other purposes (such as upkeep);
- xiv. Businesses providing mailing and shipping services, including post office boxes;
 - xv. Educational institutions—including public and private K-12 schools, colleges, and universities—for purposes of facilitating distance learning or performing essential functions, provided that social distancing of six-feet per person is maintained to the greatest extent possible;
 - xvi. Laundromats, drycleaners, and laundry service providers;
 - xvii. Restaurants and other facilities that prepare and serve food, but only for delivery or carry out. Schools and other entities that typically provide free food services to students or members of the public may continue to do so under this Order on the condition that the food is provided to students or members of the public on a pick-up and take-away basis only. Schools and other entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or at any other gathering site;
 - xviii. Funeral home providers, mortuaries, cemeteries, and crematoriums, to the extent necessary for the transport,

preparation, or processing of bodies
or remains;

- xix. Businesses that supply other Essential
Businesses with the support or
supplies necessary to operate, but
only to the extent that they support or
supply these Essential Businesses.

This exemption shall not be used as a
basis for engaging in sales to the
general public from retail storefronts;

- xx. Businesses that have the primary
function of shipping or delivering
groceries, food, or other goods
directly to residences or businesses.

This exemption shall not be used to
allow for manufacturing or assembly
of non-essential products or for other
functions besides those necessary to
the delivery operation;

- xxi. Airlines, taxis, rental car companies,
rideshare services (including shared
bicycles and scooters), and other
private transportation providers
providing transportation services
necessary for Essential Activities and
other purposes expressly authorized
in this Order;

- xxii. Home-based care for seniors, adults,
children, and pets;

- xxiii. Residential facilities and shelters for
seniors, adults, and children;

- xxiv. Professional services, such as legal,
notary, or accounting services, when
necessary to assist in compliance with
non-elective, legally required
activities;

xxv. Services to assist individuals in finding employment with Essential Businesses;

xxvi. Moving services that facilitate residential or commercial moves that are allowed under this Order;

xxvii. Childcare facilities providing services that enable owners, employees, volunteers, and contractors for Essential Businesses, Essential Governmental Functions, or Minimum Basic Operations to work as allowed under this Order. Children of owners, employees, volunteers, and contractors who are not exempt under this Order may not attend childcare facilities. To the extent possible, childcare facilities must operate under the following conditions:

- A. Childcare must be carried out in stable groups of 12 or fewer (“stable” means that the same 12 or fewer children are in the same group each day).
- B. Children shall not change from one group to another.
- C. If more than one group of children is cared for at one facility, each group shall be in a separate room. Groups shall not mix with each other.
- D. Childcare providers shall remain solely with one group of children.

g. For the purposes of this Order, “Minimum Basic Operations” means the following activities for businesses, provided that

owners, employees, and contractors comply with Social Distancing Requirements as defined this Section, to the extent possible, while carrying out such operations:

- i. The minimum necessary activities to maintain and protect the value of the business's inventory and facilities; ensure security, safety, and sanitation; process payroll and employee benefits; provide for the delivery of existing inventory directly to residences or businesses; and related functions.
 - ii. The minimum necessary activities to facilitate owners, employees, and contractors of the business being able to continue to work remotely from their residences, and to ensure that the business can deliver its service remotely.
- h. For the purposes of this Order, all Essential Businesses must prepare and post by no later than 11:59 p.m. on April 2, 2020 a "Social Distancing Protocol" for each of their facilities in the County frequented by the public or employees. The Social Distancing Protocol must be substantially in the form attached to this Order as Appendix A. The Social Distancing Protocol must be posted at or near the entrance of the relevant facility, and shall be easily viewable by the public and employees. A copy of the Social Distancing Protocol must also be provided to each employee performing work at the facility. All Essential Businesses shall implement the Social Distancing Protocol and provide evidence of

its implementation to any authority enforcing this Order upon demand. The Social Distancing Protocol must explain how the business is achieving the following, as applicable:

- i. Limiting the number of people who can enter into the facility at any one time to ensure that people in the facility can easily maintain a minimum six-foot distance from one another at all times, except as required to complete the Essential Business activity;
- ii. Where lines may form at a facility, marking six-foot increments at a minimum, establishing where individuals should stand to maintain adequate social distancing;
- iii. Providing hand sanitizer, soap and water, or effective disinfectant at or near the entrance of the facility and in other appropriate areas for use by the public and employees, and in locations where there is high-frequency employee interaction with members of the public (e.g. cashiers);
- iv. Providing for contactless payment systems or, if not feasible to do so, the providing for disinfecting all payment portals, pens, and styluses after each use;
- v. Regularly disinfecting other high-touch surfaces; and
- vi. Posting a sign at the entrance of the facility informing all employees and customers that they should: avoid entering the facility if they have a

cough or fever; maintain a minimum six-foot distance from one another; sneeze and cough into one's elbow; not shake hands or engage in any unnecessary physical contact.

- vii. Any additional social distancing measures being implemented (see the Centers for Disease Control and Prevention's guidance at: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>).
- i. For the purposes of this Order, "Essential Travel" means travel for any of the following purposes:
 - i. Travel related to the provision of or access to Essential Activities, Essential Governmental Functions, Essential Businesses, or Minimum Basic Operations.
 - ii. Travel to care for any elderly, minors, dependents, or persons with disabilities.
 - iii. Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services.
 - iv. Travel to return to a place of residence from outside the County.
 - v. Travel required by law enforcement or court order.
 - vi. Travel required for non-residents to return to their place of residence outside the County. Individuals are strongly encouraged to verify that their transportation out of the County

remains available and functional prior to commencing such travel.

- vii. Travel to manage after-death arrangements and burial.
- viii. Travel to arrange for shelter or avoid homelessness.
- ix. Travel to avoid domestic violence or child abuse.
- x. Travel for parental custody arrangements.
- xi. Travel to a place to temporarily reside in a residence or other facility to avoid potentially exposing others to COVID-19, such as a hotel or other facility provided by a governmental authority for such purposes.
- j. For purposes of this Order, “residences” include hotels, motels, shared rental units and similar facilities. Residences also include living structures and outdoor spaces associated with those living structures, such as patios, porches, backyards, and front yards that are only accessible to a single family or household unit.
- k. For purposes of this Order, “Social Distancing Requirements” means:
 - i. Maintaining at least six-foot social distancing from individuals who are not part of the same household or living unit;
 - ii. Frequently washing hands with soap and water for at least 20 seconds, or using hand sanitizer that is recognized by the Centers for Disease Control and Prevention as effective in combatting COVID-19;

- iii. Covering coughs and sneezes with a tissue or fabric or, if not possible, into the sleeve or elbow (but not into hands); and
- iv. Avoiding all social interaction outside the household when sick with a fever or cough.

All individuals must strictly comply with Social Distancing Requirements, except to the limited extent necessary to provide care (including childcare, adult or senior care, care to individuals with special needs, and patient care); as necessary to carry out the work of Essential Businesses, Essential Governmental Functions, or provide for Minimum Basic Operations; or as otherwise expressly provided in this Order.

14. Government agencies and other entities operating shelters and other facilities that house or provide meals or other necessities of life for individuals experiencing homelessness must take appropriate steps to help ensure compliance with Social Distancing Requirements, including adequate provision of hand sanitizer. Also, individuals experiencing homelessness who are unsheltered and living in encampments should, to the maximum extent feasible, abide by 12 foot by 12 foot distancing for the placement of tents, and government agencies should provide restroom and hand washing facilities for individuals in such encampments as set forth in Centers for Disease Control and Prevention Interim Guidance Responding to Coronavirus 2019 (COVID-19) Among People Experiencing Unsheltered Homelessness (<https://www.cdc.gov/coronavirus/2019->

[ncov/need-extra-precautions/unsheltered-homelessness.html](https://www.sccgov.org/sites/phd/DiseaseInformation/novel-coronavirus/Pages/order-health-officer-033120.aspx)).

15. Pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Order. The violation of any provision of this Order constitutes an imminent threat and menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment, or both.
16. This Order shall become effective at 11:59 p.m. on March 31, 2020 and will continue to be in effect until 11:59 p.m. on May 3, 2020, or until it is extended, rescinded, superseded, or amended in writing by the Health Officer.
17. Copies of this Order shall promptly be: (1) made available at the County Government Center at 70 W. Hedding Street, San José, California; (2) posted on the County Public Health Department website ([sccphd.org](https://www.sccphd.org)); and (3) provided to any member of the public requesting a copy of this Order.
18. If any provision of this Order to its application to any person or circumstance is held to be invalid, the reminder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

IT IS SO ORDERED:

0038

Sara H. Cody, M.D.

Health Officer of the County of Santa Clara

Dated: 3/31/2020

Approved as to form and legality:

James R. Williams

County Counsel

Dated: 3/31/2020

- [Official Order \[PDF\]](#)
- [New Social Distancing Protocols \[PDF\]](#)
- [One Page Executive Summary](#)
- [Executive Summary](#)

Last updated: 4/3/2020 9:30 AM

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EXHIBIT "4"

BREAKING NEWS

Coronavirus: Santa Clara County confirmed case count up 90 percent since last week

[News](#) > [Health](#) • News

Bay Area courts, authorities ramp up release of inmates to stem COVID-19 risks in jails

13

Low-risk pretrial detainees and people near the end of their jail sentences among the first to be let out



CDC and Getty Images

Coronavirus concerns are driving actions to limit the spread of the disease in court and jail settings, and prevent delays that could affect due process and put defendants at increased risk. (Bay Area News Group photo illustration)

By **ROBERT SALONGA** | rsalonga@bayareanewsgroup.com, **ANGELA RUGGIERO** | aruggiero@bayareanewsgroup.com and **NATE GARTRELL** | ngartrell@bayareanewsgroup.com | Bay Area News Group
PUBLISHED: March 19, 2020 at 4:24 p.m. | UPDATED: March 20, 2020 at 8:54 a.m.

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With the looming threat of coronavirus in jails — where social distancing, good hygiene and general health were already formidable challenges — Bay Area courts, attorneys and law enforcement are banding together to get as many inmates out of custody as they can without compromising public safety.

“This is a humanitarian crisis confronting all of us, and one of the most important ones is the jail,” Santa Clara County Assistant Public Defender Charlie Hendrickson said. “This is a time of urgent need and creativity. We’re going to responsibly reduce the jail population.”

The Alameda County Sheriff’s Office has [released more than 300 inmates this week alone](#). Of those, 67 were nonviolent offenders released on their own recognizance and ordered to make their court dates, presumably once court operations return to normal capacity. Another 247 inmates were released due to sentence modifications, meaning they have been placed on electronic monitoring and other forms of supervised release. Of those released, most had 45 days or less time to serve in jail. Alameda County Public Defender Brendon Woods declared it a victory.

For organizations that monitor inmates’ rights and conditions, there’s no time to waste. Dr. Juliana Morris, a medical doctor and part of the “Do No Harm” coalition, said the county’s main jail facility is “a public health nightmare waiting to happen.”

“It’s only a matter of time before the virus reaches Santa Rita Jail,” she said.

In a letter Thursday to the federal Bureau of Prisons asking for the release of low-risk prisoners awaiting trial, Sen. Kamala Harris [cited a Mercury News story about once-quarantined Santa Clara County inmates](#) — who had contact with a deputy public defender who tested positive for the virus — as evidence that “the risk of coronavirus and community spread is not hypothetical.”

That letter was sent the same day that the Santa Clara County Sheriff’s Office reported the [death Thursday morning of a 58-year-old man](#) who was booked into the Elmwood men’s jail in Milpitas three days earlier. He was described as an “ill inmate” who was found unresponsive and not breathing, and he died soon after. The Sheriff’s Office said in a statement that “there were no signs of foul play and the medical examiner is conducting additional testing to determine if COVID-19 was a factor in the death.”

In some instances, law-enforcement agencies are also heeding calls to be more judicious about when they arrest and book people into jail. Alameda County Sheriff’s Sgt. Ray Kelly said his agency is only booking only people suspected of committing serious and violent crimes such as child abuse, sexual offenses and human trafficking.

Contra Costa County Sheriff’s spokesman Jimmy Lee said that agency’s enforcement division has made just four arrests between Monday and Wednesday, and that three of them were booked into jail.

In Santa Clara County, in the past 10 days, the jail population has been reduced from about 3,300 to 3,000, according to Assistant District Attorney David Angel, who said his office is working with the Superior Court, public defender’s office, pretrial services and county counsel to determine how to safely release inmates charged with nonviolent crimes or otherwise pose a low safety risk.

“These are gargantuan tasks. We can’t just say, ‘Everyone out,’” Angel said. “We have to evaluate these cases with an eye on public health and public safety.”

The aim for Santa Clara County, he added, is to get the jail population down to 2,700, a target he said jail medical officials say will give them some workable space to enforce safe distances and quarantine areas if needed.

“I think we’re going to hit that number,” Angel said.

But first, a series of court hearings in the coming days will have to result in Judge Eric Geffon signing off on the release plans. The inmates that are primarily being looked at for supervised or early release generally fall into one of four groups: People who are in the final three months of their jail sentences, low-offense pretrial detainees who are in jail primarily because they can't afford bail, "medically fragile" inmates who are at elevated risk for contracting and spreading COVID-19, and people who are supposed to report to jail to serve sentences typically of less than one year.

For the latter group, a court order was expected to be signed by the end of the week so that people scheduled to start their jail sentences between now and May 15 get a 60-day reprieve. Hendrickson said attorneys in his office were furiously putting together release orders for more than 200 defendants who could be eligible to be let out of jail in the coming days.

In Contra Costa County, the public defender and district attorney are similarly working to identify low-risk defendants they agree can be safely released. A number of stipulated releases have already been processed, both in juvenile and adult courts, though it was not immediately clear how many.

A single courtroom has remained open during the shutdown, for certain pressing hearings including violent felonies. A different judge presides each day. Thursday morning, four attorneys and a prosecutor handled about a half-dozen cases. They included the release of a man who is supposed to catch a flight to Hawaii tomorrow, as well as an extradition case to Montana.

During the shutdown, judges cannot accept new motions or file orders, so the court's functions are tightly restricted. Thursday, Contra Costa Presiding Judge Barry Baskin noted that a judge who was scheduled to take over the lone courtroom had recently called in sick.

In San Mateo County, District Attorney Steve Wagstaffe said authorities are discussing — but not outright planning — possible relief for inmates with serious medical issues, expiring sentences, and those who have not yet reported for jail sentences.

"I wouldn't be surprised if we can all sit down and agree about some people who have some sort of sentence left," he said Thursday of the potential changes, adding that he would readily support the early release of inmates with 30 or 60 days left on a sentence.

For inmate advocates, things are still not moving fast enough given how rapidly COVID-19 is spreading. The Ella Baker Center for Human Rights, an Oakland-based civil rights advocacy group, sent Alameda County leaders a list of demands this week for the release of inmates at Santa Rita Jail. Included was the demand that the jail stop incarcerating any new people no matter the alleged crime and prioritize the immediate release of the most vulnerable inmates.

Silicon Valley De-Bug, which serves a similar cause in the South Bay, sent a similar letter to Santa Clara County leaders asking them to begin releasing jail inmates and issue a moratorium on new bookings and jail sentences.

All of their concerns are compounded by the fact that courtrooms throughout the Bay Area have been shuttered or had their activity slowed to a trickle — largely to allow public-safety matters like violent crimes to still be charged and arraigned — that has elicited concerns about due process being violated for jailed defendants who have no immediate recourse, including entering pleas with the aim of getting out of custody.

And advocates for inmate rights are pushing officials to provide some communication relief for inmates now that they are barred from having visitors, so they can maintain their mental health amid the new uncertainty about their incarceration.

Staff writer Fiona Kelliher contributed to this report.

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EXHIBIT "5"



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If you are in your 30-day period on a firearm, we cannot deliver it without further guidance from the county.

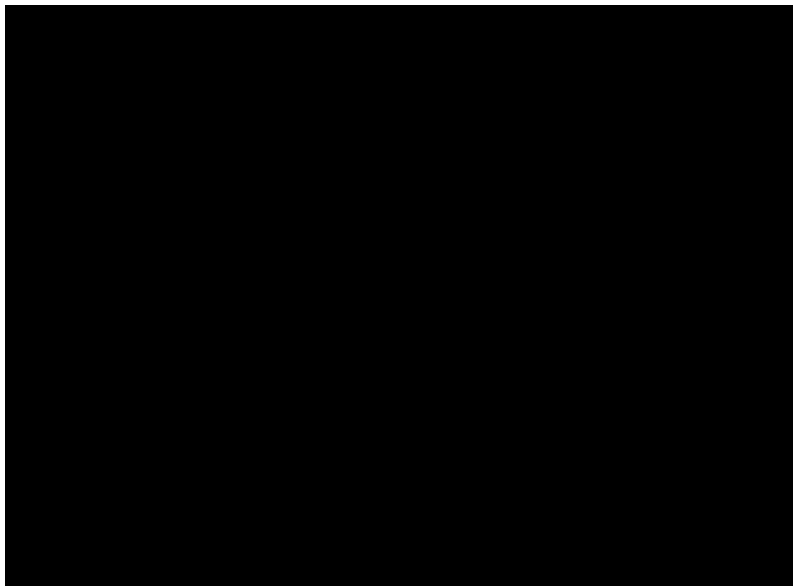
We will open again as quickly as possible, but for now we are not allowed to process firearm pickups or registrations.

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This week's special:



EXHIBIT "6"

BREAKING NEWS

Coronavirus: Santa Clara County confirmed case count up 90 percent since last week

[News](#) > [Health](#) • News

Coronavirus: San Jose orders gun store to close in one of first enforcement against businesses open under shelter order

Willow Glen gun shop stayed open, then ordered closed, with modest fanfare; police say they focused on warnings and education for suspected violations of stay-at-home order

220



SAN JOSE, CALIFORNIA – MARCH 17: Shoppers wait in line outside of Bullseye Bishop on Meridian in San Jose, Calif., on Tuesday, March 17, 2020. (Nhat V. Meyer/Bay Area News Group)

0050

By **ROBERT SALONGA** | rsalonga@bayareanewsgroup.com | Bay Area News Group
PUBLISHED: March 18, 2020 at 2:48 p.m. | UPDATED: March 19, 2020 at 3:58 a.m.

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SAN JOSE — As Bay Area business owners navigated the labyrinthine rules of the sweeping shelter-in-place order implemented Monday, many gun dealers across the region opted to stay open this week, amid a spike in sales apparently driven by fears over the coronavirus pandemic.

But after customers lined up around gun stores in several counties Tuesday — including outside the Bullseye Bishop in San Jose — San Jose Mayor Sam Liccardo declared that “gun stores are non-essential.”

“We are having panic buying right now for food,” Liccardo said Wednesday. “The one thing we cannot have is panic buying of guns.”

Law enforcement officials confirmed Wednesday that they shut down the Bullseye Bishop with little fanfare, in one of the first enforcement actions taken in San Jose on the initial day of the shelter-in-place order.

“We went out there and closed it,” San Jose police Chief Eddie Garcia said, adding that the owner was cooperative.

Two people who picked up the phone at Bullseye Bishop declined to answer questions from a reporter, repeating that the store is “closed to the public for the next three weeks.”

Outside the shop, San Jose painting contractor Joshua Wolfe, 37, who was buying ammo, said he believed the gun store had every right to remain open.

“Essential? It’s our right to arm ourselves,” Wolfe said. “Toilet paper is essential, right? People are going nuts for that, right?”

Everyone is “on edge,” he said, “because people don’t know the truth of this whole situation. If they’re short on supplies, they’ll come after people who are prepared.”

J.V. Sumabat, 31, of San Jose said he was worried about the same thing.

“I’ve seen people fighting over toilet paper. I’m worried what they will do out of desperation,” he said. “When people start looting stores and they don’t have access to food, they could come into the homes of those they feel are vulnerable. I’d rather be prepared.”



Customers line up outside of Solar Tactical, a gun and ammunition store on Wednesday, March 18, 2020, in Castro Valley, Calif. (Aric Crabb/Bay Area News Group)

Garcia said the owner of the store had told officers the business remained open because, under regulations from the California Department of Justice, they are limited in how long they can hold firearms that had already been purchased, and the buyers had to pick them up.

“We told them to go to DOJ and seek a waiver,” Garcia said. “There was no malicious intent. A lot of this stuff is going to happen.”

The gun shop closure was one of a handful of other enforcement actions by SJPd on Tuesday, including similar shutdown talks with three smoke shops, a pet grooming business and a flower shop, none of which resulted in citations. Officers also broke up a pickup basketball game at a city park, reportedly telling the participants they weren’t abiding by social distancing advisories with man-to-man defense.

Law-enforcement agencies throughout the Bay Area have said they will lean toward giving warnings and education people about the sheltering order and that issuing misdemeanor citations — the maximum legal heft to punish violations — will be used as a last resort.

Even so, Garcia said his department has assigned patrol units to be on the lookout for visible and obvious violations of the business and gathering prohibitions, like a bar staying open or a house party being held.

“We’re not turning a blind eye,” Garcia said. “We’re not proactively stopping cars and people, but if non-exempt businesses are open and we get calls, we’ll look into it.”

Staff writers George Avalos and Julia Prodis Sulek contributed to this report

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EXHIBIT "7"

**ORDER OF THE HEALTH OFFICER
OF THE COUNTY OF ALAMEDA DIRECTING
ALL INDIVIDUALS LIVING IN THE COUNTY TO SHELTER AT THEIR
PLACE OF RESIDENCE EXCEPT THAT THEY MAY LEAVE TO
PROVIDE OR RECEIVE CERTAIN ESSENTIAL SERVICES OR
ENGAGE IN CERTAIN ESSENTIAL ACTIVITIES AND WORK FOR
ESSENTIAL BUSINESSES AND GOVERNMENTAL SERVICES;
EXEMPTING INDIVIDUALS EXPERIENCING HOMELESSNESS FROM
THE SHELTER IN PLACE ORDER BUT URGING THEM TO FIND
SHELTER AND GOVERNMENT AGENCIES TO PROVIDE IT;
DIRECTING ALL BUSINESSES AND GOVERNMENTAL AGENCIES TO
CEASE NON-ESSENTIAL OPERATIONS AT PHYSICAL LOCATIONS IN
THE COUNTY; PROHIBITING ALL NON-ESSENTIAL GATHERINGS
OF ANY NUMBER OF INDIVIDUALS; AND ORDERING CESSATION OF
ALL NON-ESSENTIAL TRAVEL**

DATE OF ORDER: MARCH 16, 2020

Please read this Order carefully. Violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both. (California Health and Safety Code § 120295, *et seq.*)

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040, 101085, AND 120175, THE HEALTH OFFICER OF THE COUNTY OF ALAMEDA (“HEALTH OFFICER”) ORDERS:

1. The intent of this Order is to ensure that the maximum number of people self-isolate in their places of residence to the maximum extent feasible, while enabling essential services to continue, to slow the spread of COVID-19 to the maximum extent possible. When people need to leave their places of residence, whether to obtain or perform vital services, or to otherwise facilitate authorized activities necessary for continuity of social and commercial life, they should at all times reasonably possible comply with Social Distancing Requirements as defined in Section 10 below. All provisions of this Order should be interpreted to effectuate this intent. Failure to comply with any of the provisions of this Order constitutes an imminent threat to public health.
2. All individuals currently living within the County of Alameda (the “County”) are ordered to shelter at their place of residence. To the extent individuals are using shared or outdoor spaces, they must at all times as reasonably possible maintain social distancing of at least six feet from any other person when they are outside their residence. All persons may leave their residences only for Essential Activities, Essential Governmental Functions, or to operate Essential Businesses, all as defined in Section 10. Individuals

Order of the County Health Officer
to Shelter in Place

experiencing homelessness are exempt from this Section, but are strongly urged to obtain shelter, and governmental and other entities are strongly urged to make such shelter available as soon as possible and to the maximum extent practicable (and to utilize Social Distancing Requirements in their operation).

3. All businesses with a facility in the County, except Essential Businesses as defined below in Section 10, are required to cease all activities at facilities located within the County except Minimum Basic Operations, as defined in Section 10. For clarity, businesses may also continue operations consisting exclusively of employees or contractors performing activities at their own residences (i.e., working from home). All Essential Businesses are strongly encouraged to remain open. To the greatest extent feasible, Essential Businesses shall comply with Social Distancing Requirements as defined in Section 10 below, including, but not limited to, when any customers are standing in line.
4. All public and private gatherings of any number of people occurring outside a household or living unit are prohibited, except for the limited purposes as expressly permitted in Section 10. Nothing in this Order prohibits the gathering of members of a household or living unit.
5. All travel, including, but not limited to, travel on foot, bicycle, scooter, motorcycle, automobile, or public transit, except Essential Travel and Essential Activities as defined below in Section 10, is prohibited. People must use public transit only for purposes of performing Essential Activities or to travel to and from work to operate Essential Businesses or maintain Essential Governmental Functions. People riding on public transit must comply with Social Distancing Requirements as defined in Section 10 below, to the greatest extent feasible. This Order allows travel into or out of the County to perform Essential Activities, operate Essential Businesses, or maintain Essential Governmental Functions.
6. This Order is issued based on evidence of increasing occurrence of COVID-19 within the County and throughout the Bay Area, scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically, and evidence that the age, condition, and health of a significant portion of the population of the County places it at risk for serious health complications, including death, from COVID-19. Due to the outbreak of the COVID-19 virus in the general public, which is now a pandemic according to the World Health Organization, there is a public health emergency throughout the County. Making the problem worse, some individuals who contract the COVID-19 virus have no symptoms or have mild symptoms, which means they may not be aware they carry the virus. Because even people without symptoms can transmit the disease, and because evidence shows the disease is easily spread, gatherings can result in preventable transmission of the virus. The scientific evidence shows that at this stage of the emergency, it is essential to slow virus transmission as much as possible to protect the most vulnerable and to prevent the health care system from being overwhelmed. One proven way to slow the transmission is to limit interactions among people to the greatest extent practicable. By

reducing the spread of the COVID-19 virus, this Order helps preserve critical and limited healthcare capacity in the County.

7. This Order also is issued in light of the existence of 15 cases of COVID-19 in the County, as well as at least 258 confirmed cases and at least three deaths in the seven Bay Area jurisdictions jointly issuing this Order, as of 5 p.m. on March 15, 2020, including a significant and increasing number of suspected cases of community transmission and likely further significant increases in transmission. Widespread testing for COVID-19 is not yet available but is expected to increase in the coming days. This Order is necessary to slow the rate of spread and the Health Officer will re-evaluate it as further data becomes available.
8. This Order is issued in accordance with, and incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom, the Declarations of Local Health Emergency issued by the Health Officer on March 1 and 5, the March 10, 2020 Resolution of the Board of Supervisors of the County of Alameda Ratifying the Declarations of Local Health Emergency, and Governor Newsom's March 12, 2020 Executive Order N-25-20.
9. This Order comes after the release of substantial guidance from the County Health Officer, the Centers for Disease Control and Prevention, the California Department of Public Health, and other public health officials throughout the United States and around the world, including a variety of prior orders to combat the spread and harms of COVID-19. The Health Officer will continue to assess the quickly evolving situation and may modify or extend this Order, or issue additional Orders, related to COVID-19.
10. Definitions and Exemptions.
 - a. For purposes of this Order, individuals may leave their residence only to perform any of the following "Essential Activities." But people at high risk of severe illness from COVID-19 and people who are sick are urged to stay in their residence to the extent possible except as necessary to seek medical care.
 - i. To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members (including, but not limited to, pets), such as, by way of example only and without limitation, obtaining medical supplies or medication, visiting a health care professional, or obtaining supplies they need to work from home.
 - ii. To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example only and without limitation, canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products, and products necessary to maintain the safety, sanitation, and essential operation of residences.

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- iii. To engage in outdoor activity, provided the individuals comply with Social Distancing Requirements as defined in this Section, such as, by way of example and without limitation, walking, hiking, or running.
 - iv. To perform work providing essential products and services at an Essential Business or to otherwise carry out activities specifically permitted in this Order, including Minimum Basic Operations.
 - v. To care for a family member or pet in another household.
- b. For purposes of this Order, individuals may leave their residence to work for or obtain services at any “Healthcare Operations” including hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers, or any related and/or ancillary healthcare services. “Healthcare Operations” also includes veterinary care and all healthcare services provided to animals. This exemption shall be construed broadly to avoid any impacts to the delivery of healthcare, broadly defined. “Healthcare Operations” does not include fitness and exercise gyms and similar facilities.
- c. For purposes of this Order, individuals may leave their residence to provide any services or perform any work necessary to the operations and maintenance of “Essential Infrastructure,” including, but not limited to, public works construction, construction of housing (in particular affordable housing or housing for individuals experiencing homelessness), airport operations, water, sewer, gas, electrical, oil refining, roads and highways, public transportation, solid waste collection and removal, internet, and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services), provided that they carry out those services or that work in compliance with Social Distancing Requirements as defined this Section, to the extent possible.
- d. For purposes of this Order, all first responders, emergency management personnel, emergency dispatchers, court personnel, and law enforcement personnel, and others who need to perform essential services are categorically exempt from this Order. Further, nothing in this Order shall prohibit any individual from performing or accessing “Essential Governmental Functions,” as determined by the governmental entity performing those functions. Each governmental entity shall identify and designate appropriate employees or contractors to continue providing and carrying out any Essential Governmental Functions. All Essential Governmental Functions shall be performed in compliance with Social Distancing Requirements as defined in this Section, to the extent possible.
- e. For the purposes of this Order, covered businesses include any for-profit, non-profit, or educational entities, regardless of the nature of the service, the function they perform, or its corporate or entity structure.

- f. For the purposes of this Order, “Essential Businesses” means:
- i. Healthcare Operations and Essential Infrastructure;
 - ii. Grocery stores, certified farmers’ markets, farm and produce stands, supermarkets, food banks, convenience stores, and other establishments engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products (such as cleaning and personal care products). This includes stores that sell groceries and also sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences;
 - iii. Food cultivation, including farming, livestock, and fishing;
 - iv. Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals;
 - v. Newspapers, television, radio, and other media services;
 - vi. Gas stations and auto-supply, auto-repair, and related facilities;
 - vii. Banks and related financial institutions;
 - viii. Hardware stores;
 - ix. Plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, Essential Activities, and Essential Businesses;
 - x. Businesses providing mailing and shipping services, including post office boxes;
 - xi. Educational institutions—including public and private K-12 schools, colleges, and universities—for purposes of facilitating distance learning or performing essential functions, provided that social distancing of six-feet per person is maintained to the greatest extent possible;
 - xii. Laundromats, drycleaners, and laundry service providers;
 - xiii. Restaurants and other facilities that prepare and serve food, but only for delivery or carry out. Schools and other entities that typically provide free food services to students or members of the public may continue to do so under this Order on the condition that the food is provided to students or members of the public on a pick-up and take-away basis only. Schools and other entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or at any other gathering site;
 - xiv. Businesses that supply products needed for people to work from home;
 - xv. Businesses that supply other essential businesses with the support or supplies necessary to operate;
 - xvi. Businesses that ship or deliver groceries, food, goods or services directly to residences;

- xvii. Airlines, taxis, and other private transportation providers providing transportation services necessary for Essential Activities and other purposes expressly authorized in this Order;
 - xviii. Home-based care for seniors, adults, or children;
 - xix. Residential facilities and shelters for seniors, adults, and children;
 - xx. Professional services, such as legal or accounting services, when necessary to assist in compliance with legally mandated activities;
 - xxi. Childcare facilities providing services that enable employees exempted in this Order to work as permitted. To the extent possible, childcare facilities must operate under the following mandatory conditions:
 - 1. Childcare must be carried out in stable groups of 12 or fewer (“stable” means that the same 12 or fewer children are in the same group each day).
 - 2. Children shall not change from one group to another.
 - 3. If more than one group of children is cared for at one facility, each group shall be in a separate room. Groups shall not mix with each other.
 - 4. Childcare providers shall remain solely with one group of children.
- g. For the purposes of this Order, “Minimum Basic Operations” include the following, provided that employees comply with Social Distancing Requirements as defined in this Section, to the extent possible, while carrying out such operations:
- i. The minimum necessary activities to maintain the value of the business’s inventory, ensure security, process payroll and employee benefits, or for related functions.
 - ii. The minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences.
- h. For the purposes of this Order, “Essential Travel” includes travel for any of the following purposes. Individuals engaged in any Essential Travel must comply with all Social Distancing Requirements as defined in this Section below.
- i. Any travel related to the provision of or access to Essential Activities, Essential Governmental Functions, Essential Businesses, or Minimum Basic Operations.
 - ii. Travel to care for elderly, minors, dependents, persons with disabilities, or other vulnerable persons.
 - iii. Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services.
 - iv. Travel to return to a place of residence from outside the jurisdiction.
 - v. Travel required by law enforcement or court order.
 - vi. Travel required for non-residents to return to their place of residence outside the County. Individuals are strongly encouraged to verify that their transportation out of the County remains available and functional prior to commencing such travel.

- i. For purposes of this Order, residences include hotels, motels, shared rental units and similar facilities.
 - j. For purposes of this Order, “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.
11. Pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Order. The violation of any provision of this Order constitutes an imminent threat to public health.
12. This Order shall become effective at 12:01 a.m. on March 17, 2020 and will continue to be in effect until 11:59 p.m. on April 7, 2020, or until it is extended, rescinded, superseded, or amended in writing by the Health Officer.
13. Copies of this Order shall promptly be: (1) made available at the County Administration Building at 1225 Oak Street, Oakland, California 94612; (2) posted on the County Public Health Department’s website (acphd.org); and (3) provided to any member of the public requesting a copy of this Order.
14. If any provision of this Order to the application thereof to any person or circumstance is held to be invalid, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

IT IS SO ORDERED:



Erica Pan, MD, MPH, FAAP

Dr. Erica Pan
Interim Health Officer of the County of Alameda

Dated: March 16, 2020

EXHIBIT "8"

**ORDER OF THE HEALTH OFFICER
OF THE COUNTY OF ALAMEDA DIRECTING
ALL INDIVIDUALS LIVING IN THE COUNTY TO CONTINUE
SHELTERING AT THEIR PLACE OF RESIDENCE EXCEPT FOR
ESSENTIAL NEEDS; CONTINUING TO EXEMPT HOMELESS
INDIVIDUALS FROM THE ORDER BUT URGING GOVERNMENT
AGENCIES TO PROVIDE THEM SHELTER AND HAND SANITATION
FACILITIES; RESTRICTING ACCESS TO RECREATION AREAS;
REQUIRING ESSENTIAL BUSINESSES TO IMPLEMENT SOCIAL
DISTANCING PROTOCOLS; CLARIFYING AND FURTHER LIMITING
ESSENTIAL BUSINESS ACTIVITIES, INCLUDING CONSTRUCTION;
AND DIRECTING ALL BUSINESSES AND GOVERNMENTAL
OPERATIONS TO FURTHER CEASE NON-ESSENTIAL OPERATIONS**

**DATE OF ORDER: MARCH 31, 2020
No. 20-04**

Please read this Order carefully. Violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both. (California Health and Safety Code § 120295, *et seq.*; Cal. Penal Code §§ 69, 148(a)(1))

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040, 101085, AND 120175, THE HEALTH OFFICER OF THE COUNTY OF ALAMEDA (“HEALTH OFFICER”) ORDERS:

1. This Order supersedes the March 16, 2020 Order of the Health Officer directing all individuals to shelter in place (“Prior Shelter Order”). This Order clarifies, strengthens, and extends certain terms of the Prior Shelter Order to increase social distancing and reduce person-to-person contact in order to further slow transmission of Novel Coronavirus Disease 2019 (“COVID-19”). As of the effective date and time of this Order set forth in Section 16 below, all individuals, businesses, and government agencies in the County of Alameda (“County”) are required to follow the provisions of this Order.
2. The intent of this Order is to ensure that the maximum number of people shelter in their places of residence to the maximum extent feasible to slow the spread of COVID-19 and mitigate the impact on delivery of critical healthcare services to those in need. All provisions of this Order must be interpreted to effectuate this intent. Failure to comply with any of the provisions of this Order constitutes an imminent threat and menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment, or both.

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3. All individuals currently living within the County are ordered to shelter at their place of residence. They may leave their residence only for Essential Activities, Essential Governmental Functions, Essential Travel, to work for Essential Businesses, or to perform Minimum Basic Operations for non-essential businesses, all as defined in Section 13. Individuals experiencing homelessness are exempt from this Section, but are strongly urged to obtain shelter, and governmental and other entities are strongly urged to, as soon as possible, make such shelter available and provide handwashing or hand sanitation facilities to persons who continue experiencing homelessness.
4. When people need to leave their place of residence for the limited purposes allowed in this Order, they must strictly comply with Social Distancing Requirements as defined in Section 13.k, except as expressly provided in this Order.
5. All businesses with a facility in the County, except Essential Businesses, as defined in Section 13.f, are required to cease all activities at facilities located within the County except Minimum Basic Operations, as defined in Section 13.g. For clarity, all businesses may continue operations consisting exclusively of owners, employees, volunteers, or contractors performing activities at their own residences (i.e., working from home). All Essential Businesses are strongly encouraged to remain open. But Essential Businesses are directed to maximize the number of employees who work from home. Essential Businesses may only assign those employees who cannot perform their job duties from home to work outside the home. All Essential Businesses shall prepare, post, and implement a Social Distancing Protocol at each of their facilities at which they are maintaining operations, as specified in Section 13.h. Businesses that include an Essential Business component at their facilities alongside non-essential components must, to the extent feasible, scale down their operations to the Essential Business component only; provided, however, that mixed retail businesses that are otherwise allowed to operate under this Order may continue to stock and sell non-essential products. Essential Businesses must follow industry-specific guidance issued by the Health Officer related to COVID-19.
6. All public and private gatherings of any number of people occurring outside a single household or living unit are prohibited, except for the limited purposes expressly permitted in this Order. Nothing in this Order prohibits members of a single household or living unit from engaging in Essential Travel or Essential Activities together.
7. All travel, including, but not limited to, travel on foot, bicycle, scooter, motorcycle, automobile, or public transit, except Essential Travel, as defined below in Section 13.i, is prohibited. People may use public transit only for purposes of performing Essential Activities or to travel to and from work to operate Essential Businesses, maintain Essential Governmental Functions, or to perform Minimum Basic Operations at non-essential businesses. Transit agencies and people riding on public transit must comply with Social Distancing Requirements, as defined in Section 13.k, to the greatest extent feasible. This Order allows travel into or out of the County only to perform Essential

Activities, operate Essential Businesses, maintain Essential Governmental Functions, or perform Minimum Basic Operations at non-essential businesses.

8. This Order is issued based on evidence of increasing occurrence of COVID-19 within the County and throughout the Bay Area, scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically, and evidence that the age, condition, and health of a significant portion of the population of the County places it at risk for serious health complications, including death, from COVID-19. Due to the outbreak of the COVID-19 disease in the general public, which is now a pandemic according to the World Health Organization, there is a public health emergency throughout the County. Making the problem worse, some individuals who contract the virus causing the COVID-19 disease have no symptoms or have mild symptoms, which means they may not be aware they carry the virus and are transmitting it to others. Because even people without symptoms can transmit the infection, and because evidence shows the infection is easily spread, gatherings and other interpersonal interactions can result in preventable transmission of the virus. This public health emergency has substantially worsened since the County issued the Prior Shelter Order on March 16, 2020, with a significant escalation in the number of positive cases, hospitalizations, and deaths, and increasing strain on health care resources. At the same time, evidence suggests that the restrictions on mobility and social distancing requirements imposed by the Prior Shelter Order are slowing the rate of increase in community transmission and confirmed cases by limiting interactions among people, consistent with scientific evidence of the efficacy of similar measures in other parts of the country and world. The scientific evidence shows that at this stage of the emergency, it remains essential to continue to slow virus transmission as much as possible to protect the most vulnerable, to prevent the health care system from being overwhelmed, and to prevent deaths. Extension of the Prior Shelter Order and strengthening of its restrictions are necessary to further reduce the spread of the COVID-19 disease, preserving critical and limited healthcare capacity in the County and advancing toward a point in the public health emergency where transmission can be controlled.
9. This Order is also issued in light of the existence, as of March 29, 2020, of 254 cases of COVID-19 in the County, as well as at least 2,092 confirmed cases (up from 258 confirmed cases on March 15, 2020, just before the Prior Shelter Order) and at least 51 deaths (up from three deaths on March 15, 2020) in the seven Bay Area jurisdictions jointly issuing this Order, including a significant and increasing number of suspected cases of community transmission and likely further significant increases in transmission. This Order is necessary to slow the rate of spread, and the Health Officer will re-evaluate it as further data becomes available.
10. This Order is issued in accordance with, and incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom, the Declarations of Local Health Emergency issued by the Health Officer on March 1 and 5, the March 10, 2020 Resolution of the Board of Supervisors of the County of Alameda

Ratifying the Declarations of Local Health Emergency, and the March 17, 2020
Resolution of the Board of Supervisors Ratifying the Declaration of Local Emergency.

11. This Order is issued in light of evidence that the Prior Shelter Order has been generally effective in increasing social distancing, but that at this time additional restrictions are necessary to further mitigate the rate of transmission of COVID-19, to prevent the health care system from being overwhelmed, and prevent death. This Order comes after the release of substantial guidance from the County Health Officer, the Centers for Disease Control and Prevention, the California Department of Public Health, and other public health officials throughout the United States and around the world, including an increasing number of orders imposing similar social distancing requirements and mobility restrictions to combat the spread and harms of COVID-19. The Health Officer will continue to assess the quickly evolving situation and may modify or extend this Order, or issue additional Orders, related to COVID-19, as changing circumstances dictate.
12. This Order is also issued in light of the March 19, 2020 Order of the State Public Health Officer (the “State Shelter Order”) , which set baseline statewide restrictions on non-residential business activities effective until further notice, as well as the Governor’s March 19, 2020 Executive Order N-33-20 directing California residents to follow the State Shelter Order. The State Shelter Order was complementary to the Prior Shelter Order. This Order adopts in certain respects more stringent restrictions addressing the particular facts and circumstances in this County, which are necessary to control the public health emergency as it is evolving within the County and the Bay Area. Without this tailored set of restrictions that further reduces the number of interactions between persons, scientific evidence indicates that the public health crisis in the County will worsen to the point at which it may overtake available health care resources within the County and increase the death rate. Also, this Order enumerates additional restrictions on non-work-related travel not covered by the State Shelter Order, including limiting such travel to performance of Essential Travel or Essential Activities; sets forth mandatory Social Distancing Requirements for all individuals in the County when engaged in activities outside their residences; and adds a mechanism to ensure that Essential Businesses comply with the Social Distancing Requirements. Where a conflict exists between this Order and any state public health order related to the COVID-19 pandemic, the most restrictive provision controls. Consistent with California Health and Safety Code section 131080 and the Health Officer Practice Guide for Communicable Disease Control in California, except where the State Health Officer may issue an order expressly directed at this Order and based on a finding that a provision of this Order constitutes a menace to public health, any more restrictive measures in this Order continue to apply and control in this County.
13. Definitions and Exemptions.
 - a. For the purposes of this Order, individuals may leave their residence only to perform the following “Essential Activities.” But people at high risk of severe illness from COVID-19 and people who are sick are strongly urged to stay in their

residence to the extent possible, except as necessary to seek or provide medical care or Essential Governmental Functions. Essential Activities are:

- i. To engage in activities or perform tasks important to their health and safety, or to the health and safety of their family or household members (including pets), such as, by way of example only and without limitation, obtaining medical supplies or medication, or visiting a health care professional.
- ii. To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example only and without limitation, canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products, products needed to work from home, or products necessary to maintain the habitability, sanitation, and operation of residences.
- iii. To engage in outdoor recreation activity, including, by way of example and without limitation, walking, hiking, bicycling, and running, in compliance with Social Distancing Requirements and with the following limitations:
 1. Outdoor recreation activity at parks, beaches, and other open spaces must be in conformance with any restrictions on access and use established by the Health Officer, government, or other entity that manages such area to reduce crowding and risk of transmission of COVID-19. Such restrictions may include, but are not limited to, restricting the number of entrants, closing the area to vehicular access and parking, or closure to all public access;
 2. Use of recreational areas with high-touch equipment or that encourage gathering, including, but not limited to, playgrounds, outdoor gym equipment, picnic areas, dog parks, and barbecue areas, is prohibited outside of residences, and all such areas shall be closed to public access including by signage and, as appropriate, by physical barriers;
 3. Use of shared facilities for recreational activities outside of residences, including, but not limited to, golf courses, tennis and pickle ball courts, rock parks, climbing walls, pools, spas, shooting and archery ranges, gyms, disc golf, and basketball courts is prohibited and those areas must be closed for recreational purposes, including by signage and, as appropriate, by physical barriers. Such facilities may be repurposed during the emergency to provide essential services needed to address the COVID-19 pandemic; and
 4. Sports or activities that include the use of shared equipment may only be engaged in by members of the same household or living unit.

- iv. To perform work for an Essential Business or to otherwise carry out activities specifically permitted in this Order, including Minimum Basic Operations, as defined in this Section.
 - v. To provide necessary care for a family member or pet in another household who has no other source of care.
 - vi. To attend a funeral with no more than 10 individuals present.
 - vii. To move residences, but only if it is not possible to defer an already planned move, if the move is necessitated by safety, sanitation, or habitability reasons, or if the move is necessary to preserve access to shelter. When moving into or out of the Bay Area region, individuals are strongly urged to quarantine for 14 days. To quarantine, individuals should follow the guidance of the United States Centers for Disease Control and Prevention.
- b. For the purposes of this Order, individuals may leave their residence to work for, volunteer at, or obtain services at “Healthcare Operations,” including, without limitation, hospitals, clinics, COVID-19 testing locations, dentists, pharmacies, blood banks and blood drives, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers, or any related and/or ancillary healthcare services. “Healthcare Operations” also includes veterinary care and all healthcare services provided to animals. This exemption for Healthcare Operations shall be construed broadly to avoid any interference with the delivery of healthcare, broadly defined. “Healthcare Operations” excludes fitness and exercise gyms and similar facilities.
- c. For the purposes of this Order, individuals may leave their residence to provide any services or perform any work necessary to the operation and maintenance of “Essential Infrastructure,” including airports, utilities (including water, sewer, gas, and electrical), oil refining, roads and highways, public transportation, solid waste facilities (including collection, removal, disposal, and processing facilities), cemeteries, mortuaries, crematoriums, and telecommunications systems (including the provision of essential global, national, and local infrastructure for internet, computing services, business infrastructure, communications, and web-based services).
- d. For the purposes of this Order, all first responders, emergency management personnel, emergency dispatchers, court personnel, and law enforcement personnel, and others who need to perform essential services are categorically exempt from this Order to the extent they are performing those essential services. Further, nothing in this Order shall prohibit any individual from performing or accessing “Essential Governmental Functions,” as determined by the governmental entity performing those functions in the County. Each governmental entity shall identify and designate appropriate employees, volunteers, or contractors to continue providing and carrying out any Essential

Governmental Functions, including the hiring or retention of new employees or contractors to perform such functions. Each governmental entity and its contractors must employ all necessary emergency protective measures to prevent, mitigate, respond to and recover from the COVID-19 pandemic, and all Essential Governmental Functions shall be performed in compliance with Social Distancing Requirements to the greatest extent feasible.

- e. For the purposes of this Order, a “business” includes any for-profit, non-profit, or educational entity, whether a corporate entity, organization, partnership or sole proprietorship, and regardless of the nature of the service, the function it performs, or its corporate or entity structure.
- f. For the purposes of this Order, “Essential Businesses” are:
 - i. Healthcare Operations and businesses that operate, maintain, or repair Essential Infrastructure;
 - ii. Grocery stores, certified farmers’ markets, farm and produce stands, supermarkets, food banks, convenience stores, and other establishments engaged in the retail sale of unprepared food, canned food, dry goods, non-alcoholic beverages, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, as well as hygienic products and household consumer products necessary for personal hygiene or the habitability, sanitation, or operation of residences. The businesses included in this subparagraph (ii) include establishments that sell multiple categories of products provided that they sell a significant amount of essential products identified in this subparagraph, such as liquor stores that also sell a significant amount of food.
 - iii. Food cultivation, including farming, livestock, and fishing;
 - iv. Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals;
 - v. Construction, but only of the types listed in this subparagraph below:
 - 1. Projects immediately necessary to the maintenance, operation, or repair of Essential Infrastructure;
 - 2. Projects associated with Healthcare Operations, including creating or expanding Healthcare Operations, provided that such construction is directly related to the COVID-19 response;
 - 3. Affordable housing that is or will be income-restricted, including multi-unit or mixed-use developments containing at least 10% income-restricted units;
 - 4. Public works projects if specifically designated as an Essential Governmental Function by the lead governmental agency;
 - 5. Shelters and temporary housing, but not including hotels or motels;
 - 6. Projects immediately necessary to provide critical non-commercial services to individuals experiencing homelessness, elderly persons,

- persons who are economically disadvantaged, and persons with special needs;
7. Construction necessary to ensure that existing construction sites that must be shut down under this Order are left in a safe and secure manner, but only to the extent necessary to do so; and
 8. Construction or repair necessary to ensure that residences and buildings containing Essential Businesses are safe, sanitary, or habitable to the extent such construction or repair cannot reasonably be delayed;
- vi. Newspapers, television, radio, and other media services;
 - vii. Gas stations and auto-supply, auto-repair (including, but not limited to, for cars, trucks, motorcycles and motorized scooters), and automotive dealerships, but only for the purpose of providing auto-supply and auto-repair services (and not, by way of example, car sales or car washes). This subparagraph (vii) does not restrict the on-line purchase of automobiles if they are delivered to a residence or Essential Business;
 - viii. Bicycle repair and supply shops;
 - ix. Banks and related financial institutions;
 - x. Service providers that enable residential transactions (including rentals, leases, and home sales), including, but not limited to, real estate agents, escrow agents, notaries, and title companies, provided that appointments and other residential viewings must only occur virtually or, if a virtual viewing is not feasible, by appointment with no more than two visitors at a time residing within the same household or living unit and one individual showing the unit (except that in person visits are not allowed when the occupant is still residing in the residence);
 - xi. Hardware stores;
 - xii. Plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the habitability, sanitation, and operation of residences and Essential Businesses, but not for cosmetic or other purposes;
 - xiii. Arborists, landscapers, gardeners, and similar service professionals, but only to the limited extent necessary to maintain the habitability, sanitation, operation of businesses or residences, or the safety of residents, employees, or the public (such as fire safety or tree trimming to prevent a dangerous condition), and not for cosmetic or other purposes (such as upkeep);
 - xiv. Businesses providing mailing and shipping services, including post office boxes;
 - xv. Educational institutions—including public and private K-12 schools, colleges, and universities—for purposes of facilitating distance learning or performing essential functions, provided that social distancing of six-feet per person is maintained to the greatest extent possible;
 - xvi. Laundromats, drycleaners, and laundry service providers;

- xvii. Restaurants and other facilities that prepare and serve food, but only for delivery or carry out. Schools and other entities that typically provide free food services to students or members of the public may continue to do so under this Order on the condition that the food is provided to students or members of the public on a pick-up and take-away basis only. Schools and other entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or at any other gathering site;
- xviii. Funeral home providers, mortuaries, cemeteries, and crematoriums, to the extent necessary for the transport, preparation, or processing of bodies or remains;
- xix. Businesses that supply other Essential Businesses with the support or supplies necessary to operate, but only to the extent that they support or supply these Essential Businesses. This exemption shall not be used as a basis for engaging in sales to the general public from retail storefronts;
- xx. Businesses that have the primary function of shipping or delivering groceries, food, or other goods directly to residences or businesses. This exemption shall not be used to allow for manufacturing or assembly of non-essential products or for other functions besides those necessary to the delivery operation;
- xxi. Airlines, taxis, rental car companies, rideshare services (including shared bicycles and scooters), and other private transportation providers providing transportation services necessary for Essential Activities and other purposes expressly authorized in this Order;
- xxii. Home-based care for seniors, adults, children, and pets;
- xxiii. Residential facilities and shelters for seniors, adults, and children;
- xxiv. Professional services, such as legal, notary, or accounting services, when necessary to assist in compliance with non-elective, legally required activities;
- xxv. Services to assist individuals in finding employment with Essential Businesses;
- xxvi. Moving services that facilitate residential or commercial moves that are allowed under this Order;
- xxvii. Childcare facilities providing services that enable owners, employees, volunteers, and contractors for Essential Businesses or Essential Governmental Functions to work as permitted. Children of owners, employees, volunteers, and contractors who are not exempt under this Order may not attend childcare facilities. To the extent possible, childcare facilities must operate under the following conditions:
 - 1. Childcare must be carried out in stable groups of 12 or fewer (“stable” means that the same 12 or fewer children are in the same group each day).
 - 2. Children shall not change from one group to another.

3. If more than one group of children is cared for at one facility, each group shall be in a separate room. Groups shall not mix with each other.
 4. Childcare providers shall remain solely with one group of children.
- g. For the purposes of this Order, “Minimum Basic Operations” means the following activities for businesses, provided that owners, employees, and contractors comply with Social Distancing Requirements as defined this Section, to the extent possible, while carrying out such operations:
- i. The minimum necessary activities to maintain and protect the value of the business’s inventory and facilities; ensure security, safety, and sanitation; process payroll and employee benefits; provide for the delivery of existing inventory directly to residences or businesses; and related functions.
 - ii. The minimum necessary activities to facilitate owners, employees, and contractors of the business being able to continue to work remotely from their residences, and to ensure that the business can deliver its service remotely.
- h. For the purposes of this Order, all Essential Businesses must prepare and post by no later than 11:59 p.m. on April 2, 2020 a “Social Distancing Protocol” for each of their facilities in the County frequented by the public or employees. The Social Distancing Protocol must be substantially in the form attached to this Order as Appendix A. The Social Distancing Protocol must be posted at or near the entrance of the relevant facility, and shall be easily viewable by the public and employees. A copy of the Social Distancing Protocol must also be provided to each employee performing work at the facility. All Essential Businesses shall implement the Social Distancing Protocol and provide evidence of its implementation to any authority enforcing this Order upon demand. The Social Distancing Protocol must explain how the business is achieving the following, as applicable:
- i. Limiting the number of people who can enter into the facility at any one time to ensure that people in the facility can easily maintain a minimum six-foot distance from one another at all times, except as required to complete the Essential Business activity;
 - ii. Where lines may form at a facility, marking six-foot increments at a minimum, establishing where individuals should stand to maintain adequate social distancing;
 - iii. Providing hand sanitizer, soap and water, or effective disinfectant at or near the entrance of the facility and in other appropriate areas for use by the public and employees, and in locations where there is high-frequency employee interaction with members of the public (e.g. cashiers);
 - iv. Providing for contactless payment systems or, if not feasible to do so, the providing for disinfecting all payment portals, pens, and styluses after each use;
 - v. Regularly disinfecting other high-touch surfaces; and

- vi. Posting a sign at the entrance of the facility informing all employees and customers that they should: avoid entering the facility if they have a cough or fever; maintain a minimum six-foot distance from one another; sneeze and cough into one's elbow; not shake hands or engage in any unnecessary physical contact.
 - vii. Any additional social distancing measures being implemented (see the Centers for Disease Control and Prevention's guidance at: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>).
- i. For the purposes of this Order, "Essential Travel" means travel for any of the following purposes:
- i. Travel related to the provision of or access to Essential Activities, Essential Governmental Functions, Essential Businesses, or Minimum Basic Operations.
 - ii. Travel to care for any elderly, minors, dependents, or persons with disabilities.
 - iii. Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services.
 - iv. Travel to return to a place of residence from outside the County.
 - v. Travel required by law enforcement or court order.
 - vi. Travel required for non-residents to return to their place of residence outside the County. Individuals are strongly encouraged to verify that their transportation out of the County remains available and functional prior to commencing such travel.
 - vii. Travel to manage after-death arrangements and burial.
 - viii. Travel to arrange for shelter or avoid homelessness.
 - ix. Travel to avoid domestic violence or child abuse.
 - x. Travel for parental custody arrangements.
 - xi. Travel to a place to temporarily reside in a residence or other facility to avoid potentially exposing others to COVID-19, such as a hotel or other facility provided by a governmental authority for such purposes.
- j. For purposes of this Order, "residences" include hotels, motels, shared rental units and similar facilities. Residences also include living structures and outdoor spaces associated with those living structures, such as patios, porches, backyards, and front yards that are only accessible to a single family or household unit.
- k. For purposes of this Order, "Social Distancing Requirements" means:
- i. Maintaining at least six-foot social distancing from individuals who are not part of the same household or living unit;
 - ii. Frequently washing hands with soap and water for at least 20 seconds, or using hand sanitizer that is recognized by the Centers for Disease Control and Prevention as effective in combatting COVID-19;

- iii. Covering coughs and sneezes with a tissue or fabric or, if not possible, into the sleeve or elbow (but not into hands); and
- iv. Avoiding all social interaction outside the household when sick with a fever or cough.

All individuals must strictly comply with Social Distancing Requirements, except to the limited extent necessary to provide care (including childcare, adult or senior care, care to individuals with special needs, and patient care); as necessary to carry out the work of Essential Businesses, Essential Governmental Functions, or provide for Minimum Basic Operations; or as otherwise expressly provided in this Order.

14. Government agencies and other entities operating shelters and other facilities that house or provide meals or other necessities of life for individuals experiencing homelessness must take appropriate steps to help ensure compliance with Social Distancing Requirements, including adequate provision of hand sanitizer. Also, individuals experiencing homelessness who are unsheltered and living in encampments should, to the maximum extent feasible, abide by 12 foot by 12 foot distancing for the placement of tents, and government agencies should provide restroom and hand washing facilities for individuals in such encampments as set forth in Centers for Disease Control and Prevention Interim Guidance Responding to Coronavirus 2019 (COVID-19) Among People Experiencing Unsheltered Homelessness (<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/unsheltered-homelessness.html>).
15. Pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Order. The violation of any provision of this Order constitutes an imminent threat and menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment, or both.
16. This Order shall become effective at 11:59 p.m. on March 31, 2020 and will continue to be in effect until 11:59 p.m. on May 3, 2020, or until it is extended, rescinded, superseded, or amended in writing by the Health Officer.
17. Copies of this Order shall promptly be: (1) made available at the County Administration Building at 1221 Oak Street, Oakland, California 94612; (2) posted on the County Public Health Department's website (acphd.org); and (3) provided to any member of the public requesting a copy of this Order.

18. If any provision of this Order to its application to any person or circumstance is held to be invalid, the reminder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

IT IS SO ORDERED:



Dr. Erica Pan
Interim Health Officer of the County of Alameda

Dated: March 31, 2020

Attachments: Appendix A – Social Distancing Protocol

Appendix A: Social Distancing Protocol

Business name: Click or tap here to enter text.

Facility Address: Click or tap here to enter text.

Approximate gross square footage of space open to the public: Click or tap here to enter text.

Businesses must implement all applicable measures listed below, and be prepared to explain why any measure that is not implemented is inapplicable to the business.

Signage:

☐ Signage at each public entrance of the facility to inform all employees and customers that they should: avoid entering the facility if they have a cough or fever; maintain a minimum six-foot distance from one another; sneeze and cough into a cloth or tissue or, if not available, into one's elbow; and not shake hands or engage in any unnecessary physical contact.

☐ Signage posting a copy of the Social Distancing Protocol at each public entrance to the facility.

Measures To Protect Employee Health (check all that apply to the facility):

☐ Everyone who can carry out their work duties from home has been directed to do so.

☐ All employees have been told not to come to work if sick.

☐ Symptom checks are being conducted before employees may enter the work space.

☐ All desks or individual work stations are separated by at least six feet.

☐ Break rooms, bathrooms, and other common areas are being disinfected frequently, on the following schedule:

☐ Break rooms:

☐ Bathrooms:

☐ Other (Click or tap here to enter text.): Click or tap here to enter text.

☐ Disinfectant and related supplies are available to all employees at the following location(s): Click or tap here to enter text.

☐ Hand sanitizer effective against COVID-19 is available to all employees at the following location(s): Click or tap here to enter text.

☐ Soap and water are available to all employees at the following location(s): Click or tap here to enter text.

☐ Copies of this Protocol have been distributed to all employees.

☐ Optional—Describe other measures: Click or tap here to enter text.

Measures To Prevent Crowds From Gathering (check all that apply to the facility):

☐ Limit the number of customers in the store at any one time to Click or tap here to enter text.[insert maximum number here], which allows for customers and employees to easily maintain at least six-foot distance from one another at all practicable times.

☐ Post an employee at the door to ensure that the maximum number of customers in the facility set forth above is not exceeded.

☐ Placing per-person limits on goods that are selling out quickly to reduce crowds and lines. Explain: Click or tap here to enter text.

Appendix A: Social Distancing Protocol

☐ Optional—Describe other measures: [Click or tap here to enter text.](#)

Measures To Keep People At Least Six Feet Apart (check all that apply to the facility)

- ☐ Placing signs outside the store reminding people to be at least six feet apart, including when in line.
- ☐ Placing tape or other markings at least six feet apart in customer line areas inside the store and on sidewalks at public entrances with signs directing customers to use the markings to maintain distance.
- ☐ Separate order areas from delivery areas to prevent customers from gathering.
- ☐ All employees have been instructed to maintain at least six feet distance from customers and from each other, except employees may momentarily come closer when necessary to accept payment, deliver goods or services, or as otherwise necessary.
- ☐ Optional—Describe other measures: [Click or tap here to enter text.](#)

Measures To Prevent Unnecessary Contact (check all that apply to the facility):

- ☐ Preventing people from self-serving any items that are food-related.
 - ☐ Lids for cups and food-bar type items are provided by staff; not to customers to grab.
 - ☐ Bulk-item food bins are not available for customer self-service use.
- ☐ Not permitting customers to bring their own bags, mugs, or other reusable items from home.
- ☐ Providing for contactless payment systems or, if not feasible, sanitizing payment systems regularly.
Describe: [Click or tap here to enter text.](#)
- ☐ Optional—Describe other measures (e.g. providing senior-only hours): [Click or tap here to enter text.](#)

Measures To Increase Sanitization (check all that apply to the facility):

- ☐ Disinfecting wipes that are effective against COVID-19 are available near shopping carts and shopping baskets.
- ☐ Employee(s) assigned to disinfect carts and baskets regularly.
- ☐ Hand sanitizer, soap and water, or effective disinfectant is available to the public at or near the entrance of the facility, at checkout counters, and anywhere else inside the store or immediately outside where people have direct interactions.
- ☐ Disinfecting all payment portals, pens, and styluses after each use.
- ☐ Disinfecting all high-contact surfaces frequently.
- ☐ Optional—Describe other measures: [Click or tap here to enter text.](#)

* Any additional measures not included here should be listed on separate pages, which the business should attach to this document.

You may contact the following person with any questions or comments about this protocol:

Name: [Click or tap here to enter text.](#)

Phone number: [Click or tap here to enter text.](#)

EXHIBIT "9"

BREAKING NEWS

Coronavirus: Live in these Bay Area cities? You may not be getting a stimulus check

[News](#) > [Health](#) • News

Coronavirus: Bay Area cities crack down on gun stores; L.A. sheriff goes back to ordering gun sales there stopped

In the Bay Area, stores in Pleasant Hill, Fremont and Pacifica were ordered to close and other shops will likely follow



PLEASANT HILL, CA – MARCH 25: A customer stands outside the City Arms East gun store during California's shelter-in-place order in Pleasant Hill, Calif., on Wednesday, March 25, 2020. The shelter-in-

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place order was put in place to contain the spread of the coronavirus.
(Doug Duran/Bay Area News Group)

By **THOMAS PEELE** | tpeelee@bayareanewsgroup.com | Bay Area News Group
PUBLISHED: March 26, 2020 at 2:38 p.m. | UPDATED: March 27, 2020 at 10:55 a.m.

This story is available to all readers in the interest of public safety. Please consider supporting our coverage of the coronavirus outbreak by subscribing to East Bay Times. Only 99¢ for a 3-month trial.

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Three Bay Area guns stores were ordered closed, another was put on notice, and the sheriff of California's largest county reversed course again and ordered stores in his jurisdiction to also stop selling weapons Thursday as the debate over whether or not the businesses are essential played out across California in the midst of the coronavirus crisis.

"In compliance with (Gov. Gavin Newsom's) executive order, gun and ammunition stores are not considered essential businesses and will cease to sell to the general public," Los Angeles County Sheriff Alex Villanueva tweeted Thursday. He had announced a similar position Tuesday, but pulled back after his county's top lawyer wrote an opinion hours later calling the stores essential.

Villanueva and others have said they are concerned about the panic buying of guns in the midst of the crisis. Surges in gun sales have been reported across the state and the country, with some store owners saying they are proving an essential service by selling weapons.

In the Bay Area, a gun store in Pleasant Hill stopped sales and its doors were locked, and stores in Pacifica and Fremont were told to close because they are not considered essential businesses, officials said following [a report by this news organization](#) that they were open.

But whether all gun stores will be closed remained an open question Thursday, a day after Newsom said he would leave the matter up to "the sheriffs in their respective jurisdictions."

Contra Costa County Sheriff David Livingston, president of the California State Sheriff's Association, said in a statement Thursday that he wanted to know why health officials who worked out county shelter-in-place orders didn't consider such businesses essential.

"I am concerned with the inconsistency among counties on this issue," Livingston said. "I am also concerned that law-abiding citizens cannot purchase lawful firearms to protect themselves and their families. The Governor has left the matter to California's sheriffs, so I am trying to take a thoughtful and informed approach as we move forward."

Villanueva's announcement and Livingston's statement came as Pleasant Hill officials informed the owner of a gun shop there, City Arms East, that it was not an essential business and needed to close shut down, a city spokesperson, Gayle Vassar, wrote in an email.

"The store is to remain locked at all times and no new sales are allowed," she wrote. "Persons who had already started the purchase process will be allowed to complete their purchase by appointment only, following social distancing guidelines."

In Fremont, police said that the owner of Black Dog Armory was told to close his doors or face charges.

"He's going to have to cease operations or we're going to be forced to send a notice over to the District Attorney for charging," Lt. Walter Shadle said.

In Pacifica, Police Chief Daniel Steidle said the City Arms store there was shut down except for customers picking up weapons they have already ordered. That will stop on April 6, "after which no further activity will be allowed at the business," he said.

In Brentwood, City Manager Tim Ogden said the store there, Glaser Arms, would be hearing from the city.

"Both the county and state have issued guidelines for essential businesses. Gun sales don't fit either, and we'll provide them a notice accordingly," he wrote in an email.

In neighboring Antioch, City Manager Ron Bernal didn't respond to an email asking about the status of Antioch Armory, a gun store across the street from City Hall. The store was open Wednesday with customers browsing and workers demonstrating weapons.

In most of the Bay Area, other gun stores are closed after officials in Contra Costa, Alameda, Santa Clara, San Mateo, San Francisco, Marin and other neighboring counties issued shelter-in-place orders that included a list of essential businesses. Gun stores were not on it. The governor then put his own shelter-in-place order into effect statewide.

In counties that did not issue their own shelter-in-place orders, some sheriffs announced decisions Thursday that gun sales will continue, including San Diego, San Luis Obispo, and Shasta.

Staff writers Robert Salonga and Joseph Geha contributed this story

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Thomas Peele | Investigative reporter Thomas Peele is a Pulitzer Prize winning investigative reporter on the Bay Area News Group's

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EXHIBIT "10"



CORONAVIRUS

Live updates

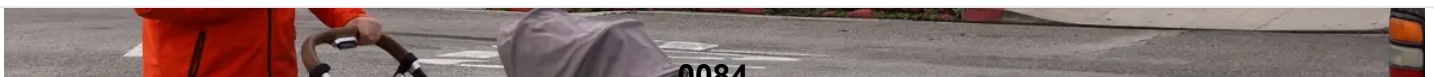


Everything we know about the virus

▲ DOW
-1.7%▲ S&P 500
-1.5%▲ NASDAQ 100
-1.5%

Gov. Gavin Newsom is letting California's 58 counties each decide if gun stores can stay open during the coronavirus shutdown as people line up to panic-buy firearms

Katie Canales Mar 26, 2020, 9:59 AM

[◀ HOMEPAGE](#)

0084



A pedestrian pushes a stroller as people wait in line outside to buy supplies at the Martin B. Retting, Inc. gun store amid fears of the global growth of coronavirus cases, in Culver City, California, March 15, 2020 Patrick T. Fallon/Reuters

Gun sales across the country have surged as customers panic-buy firearms in addition to essential supplies amid the coronavirus pandemic.

In California and the Bay Area specifically, firearm retailers have seen long lines and spikes in sales as shelter-in-place orders go into effect.

But whether or not gun shops qualify as essential businesses that are allowed to remain open during a shelter-in-place order has been unclear.

However, Gov. Gavin Newsom said on Wednesday that it's up to each of California's 58 counties to decide if gun shops within county borders are allowed to stay open.

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[< HOMEPAGE](#)



Gun stores across the US [have seen surging sales](#) as customers panic-buy firearms amid shelter-in-place orders to contain the coronavirus disease.

Retailers in California have also seen spikes, as first the San Francisco Bay Area entered a shelter-in-place order, and now the state has as well. As [The San Francisco Chronicle](#) reported last week, shaken customers turned to retailers in locales like Novato, Sunnyvale, and Pacifica for guns and for some peace of mind.

"The government is trying to do everything it can to keep society intact," 36-year-old Andrew Dominguez told the Chronicle outside Pacifica's City Arms store. "But if society is unraveling, it's up to us to protect ourselves."

Some firearm buyers cited a potential increase in crime rates as one motive for purchasing a gun, though reports have indicated that [crime is actually down](#) as stay-at-home orders are issued across the Bay Area. California retailers have also seen an influx of Asian-American customers looking for a means of protection against potential attacks fueled by xenophobia and racism that many are experiencing as the

[← HOMEPAGE](#)



some gun stores [did indeed stay open](#) the day that the Bay Area order went into effect.

On Wednesday, Gov. Gavin Newsom shed more light on the future of firearm retailers in the state. Instead of designating them as essential or nonessential businesses, he announced that each of the state's 58 counties would be able to decide for themselves.

"I believe in people's right to bear arms, but I'll defer to the sheriff in this instance, the sheriffs in their respective jurisdictions," said Newsom during a press conference according to [Mercury News](#).

Second Amendment advocates argue that people have the right to bear arms now, just as they do when a global pandemic isn't occurring. But some local officials have expressed concern that leaving gun stores open [could lead to a public safety issue](#) as residents stock up on guns.

Contra Costa County Supervisor John Gioia, for example, said Wednesday that gun stores in the county would be closed. Alameda County, another Bay Area county currently under the regionwide shelter-in-place order, closed down a gun shop last week that had stayed open after the order went into effect, according to Mercury News. A spokesperson for the county said that it's also up to individual cities to enforce county orders.

Gun stores that do end up remaining open are still enforcing social distancing practices, with some directing staff to wear gloves and masks and allowing only 10

[◀ HOMEPAGE](#)



Essential businesses that [have typically remained open](#) during shelter-in-place orders are grocery stores, pharmacies, banks, and hardware stores.

The San Francisco Bay Area is in the second week of the three-week [shelter-in-place order](#), though that [could be extended](#). Newsom said last week that the statewide stay-at-home order would [last for at least eight weeks](#).

There are currently [1,887](#) confirmed cases of the virus in California, including 798 in the Bay Area.



Do you have a personal experience with the coronavirus you'd like to share? Or a tip on how your town or community is handling the pandemic? Please email covidthips@businessinsider.com and tell us your story.

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EXHIBIT "11"



**ORDER OF THE HEALTH OFFICER
OF THE COUNTY OF SAN MATEO DIRECTING
ALL INDIVIDUALS LIVING IN THE COUNTY TO SHELTER AT THEIR PLACE OF
RESIDENCE EXCEPT THAT THEY MAY LEAVE TO PROVIDE OR RECEIVE
CERTAIN ESSENTIAL SERVICES OR ENGAGE IN CERTAIN ESSENTIAL
ACTIVITIES AND WORK FOR ESSENTIAL BUSINESSES AND GOVERNMENTAL
SERVICES; EXEMPTING INDIVIDUALS EXPERIENCING HOMELESSNESS FROM
THE SHELTER IN PLACE ORDER BUT URGING THEM TO FIND SHELTER AND
GOVERNMENT AGENCIES TO PROVIDE IT; DIRECTING ALL BUSINESSES AND
GOVERNMENTAL AGENCIES TO CEASE NON-ESSENTIAL OPERATIONS AT
PHYSICAL LOCATIONS IN THE COUNTY; PROHIBITING ALL NON-ESSENTIAL
GATHERINGS OF ANY NUMBER OF INDIVIDUALS; AND ORDERING
CESSATION OF ALL NON-ESSENTIAL TRAVEL**

DATE OF ORDER: MARCH 16, 2020

Please read this Order carefully. Violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both. (California Health and Safety Code § 120295, *et seq.*)

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040, 101085, AND 120175, THE HEALTH OFFICER OF THE COUNTY OF SAN MATEO ("HEALTH OFFICER") ORDERS:

1. The intent of this Order is to ensure that the maximum number of people self-isolate in their places of residence to the maximum extent feasible, while enabling essential services to continue, to slow the spread of COVID-19 to the maximum extent possible. When people need to leave their places of residence, whether to obtain or perform vital services, or to otherwise facilitate authorized activities necessary for continuity of social and commercial life, they should at all times reasonably possible comply with Social Distancing Requirements as defined in Section 10 below. All provisions of this Order should be interpreted to effectuate this intent. Failure to comply with any of the provisions of this Order constitutes an imminent threat to public health.
2. All individuals currently living within San Mateo County (the "County") are ordered to shelter at their place of residence. To the extent individuals are using shared or outdoor spaces, they must at all times as reasonably possible maintain social distancing of at least six feet from any other person when they are outside their residence. All persons may leave their residences only for Essential Activities, Essential Governmental Functions, or to operate Essential Businesses, all as defined in Section 10. Individuals experiencing homelessness are exempt from this Section, but are strongly urged to obtain shelter, and





governmental and other entities are strongly urged to make such shelter available as soon as possible and to the maximum extent practicable (and to utilize Social Distancing Requirements in their operation).

3. All businesses with a facility in the County, except Essential Businesses as defined below in Section 10, are required to cease all activities at facilities located within the County except Minimum Basic Operations, as defined in Section 10. For clarity, businesses may also continue operations consisting exclusively of employees or contractors performing activities at their own residences (i.e., working from home). All Essential Businesses are strongly encouraged to remain open. To the greatest extent feasible, Essential Businesses shall comply with Social Distancing Requirements as defined in Section 10 below, including, but not limited to, when any customers are standing in line.
4. All public and private gatherings of any number of people occurring outside a household or living unit are prohibited, except for the limited purposes as expressly permitted in Section 10. Nothing in this Order prohibits the gathering of members of a household or living unit.
5. All travel, including, but not limited to, travel on foot, bicycle, scooter, motorcycle, automobile, or public transit, except Essential Travel and Essential Activities as defined below in Section 10, is prohibited. People must use public transit only for purposes of performing Essential Activities or to travel to and from work to operate Essential Businesses or maintain Essential Governmental Functions. People riding on public transit must comply with Social Distancing Requirements as defined in Section 10 below, to the greatest extent feasible. This Order allows travel into or out of the County to perform Essential Activities, operate Essential Businesses, or maintain Essential Governmental Functions.
6. This Order is issued based on evidence of increasing occurrence of COVID-19 within the County and throughout the Bay Area, scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically, and evidence that the age, condition, and health of a significant portion of the population of the County places it at risk for serious health complications, including death, from COVID-19. Due to the outbreak of the COVID-19 virus in the general public, which is now a pandemic according to the World Health Organization, there is a public health emergency throughout the County. Making the problem worse, some individuals who contract the COVID-19 virus have no symptoms or have mild symptoms, which means they may not be aware they carry the virus. Because even people without symptoms can transmit the disease, and because evidence shows the disease is easily spread, gatherings can result in preventable transmission of the virus. The scientific evidence shows that at this stage of the emergency, it is essential to slow virus transmission as much as possible to protect the most vulnerable and to prevent the health care system from being overwhelmed. One proven way to slow the transmission is to limit interactions among people to the greatest extent practicable. By reducing the spread of the COVID-19 virus, this Order helps preserve critical and limited healthcare capacity in the County.
7. This Order also is issued in light of the existence of 41 cases of COVID-19 in the County, as well as at least 258 confirmed cases and at least three deaths in the seven Bay Area jurisdictions jointly issuing this Order, as of 5 p.m. on March 15, 2020, including a significant and increasing number of suspected cases of community transmission and likely further significant increases in transmission. Widespread testing for COVID-19 is not yet available but is expected to increase in the coming days. This Order is



necessary to slow the rate of spread and the Health Officer will re-evaluate it as further data becomes available.

8. This Order revokes and replaces Order Number C19-2b (revised), originally issued on March 14, 2020. That order is no longer in effect as of the effective date and time of this Order. This Order is issued in accordance with, and incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom, the March 3, 2020 Proclamation by the Director of Emergency Services Declaring the Existence of a Local Emergency in the County, the March 3, 2020 Declaration of Local Health Emergency Regarding Novel Coronavirus 2019 (COVID-19) issued by the Health Officer, the March 10, 2020 Resolution of the Board of Supervisors of the County of San Mateo Ratifying and Extending the Declaration of a Local Health Emergency, the March 11, 2020 and March Order of the Health Officer No. C19-1 restricting visitors to skilled nursing facilities, the March 12, 2020 State of California Executive Order N-25-20, and the March 13, 2020 Order of the Health Officer No. C19-3 imposing a School Operations Modification Order.
9. This Order comes after the release of substantial guidance from the County Health Officer, the Centers for Disease Control and Prevention, the California Department of Public Health, and other public health officials throughout the United States and around the world, including a variety of prior orders to combat the spread and harms of COVID-19. The Health Officer will continue to assess the quickly evolving situation and may modify or extend this Order, or issue additional Orders, related to COVID-19.
10. Definitions and Exemptions.
 - a. For purposes of this Order, individuals may leave their residence only to perform any of the following “Essential Activities.” But people at high risk of severe illness from COVID-19 and people who are sick are urged to stay in their residence to the extent possible except as necessary to seek medical care.
 - i. To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members (including, but not limited to, pets), such as, by way of example only and without limitation, obtaining medical supplies or medication, visiting a health care professional, or obtaining supplies they need to work from home.
 - ii. To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example only and without limitation, canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products, and products necessary to maintain the safety, sanitation, and essential operation of residences.
 - iii. To engage in outdoor activity, provided the individuals comply with Social Distancing Requirements as defined in this Section, such as, by way of example and without limitation, walking, hiking, or running.



- iv. To perform work providing essential products and services at an Essential Business or to otherwise carry out activities specifically permitted in this Order, including Minimum Basic Operations.
 - v. To care for a family member or pet in another household.
- b. For purposes of this Order, individuals may leave their residence to work for or obtain services at any “Healthcare Operations” including hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers, or any related and/or ancillary healthcare services. “Healthcare Operations” also includes veterinary care and all healthcare services provided to animals. This exemption shall be construed broadly to avoid any impacts to the delivery of healthcare, broadly defined. “Healthcare Operations” does not include fitness and exercise gyms and similar facilities.
- c. For purposes of this Order, individuals may leave their residence to provide any services or perform any work necessary to the operations and maintenance of “Essential Infrastructure,” including, but not limited to, public works construction, construction of housing (in particular affordable housing or housing for individuals experiencing homelessness), airport operations, water, sewer, gas, electrical, oil refining, roads and highways, public transportation, solid waste collection and removal, internet, and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services), provided that they carry out those services or that work in compliance with Social Distancing Requirements as defined this Section, to the extent possible.
- d. For purposes of this Order, all first responders, emergency management personnel, emergency dispatchers, court personnel, and law enforcement personnel, and others who need to perform essential services are categorically exempt from this Order. Further, nothing in this Order shall prohibit any individual from performing or accessing “Essential Governmental Functions,” as determined by the governmental entity performing those functions. Each governmental entity shall identify and designate appropriate employees or contractors to continue providing and carrying out any Essential Governmental Functions. All Essential Governmental Functions shall be performed in compliance with Social Distancing Requirements as defined in this Section, to the extent possible.
- e. For the purposes of this Order, covered businesses include any for-profit, non-profit, or educational entities, regardless of the nature of the service, the function they perform, or its corporate or entity structure.
- f. For the purposes of this Order, “Essential Businesses” means:
 - i. Healthcare Operations and Essential Infrastructure;
 - ii. Grocery stores, certified farmers’ markets, farm and produce stands, supermarkets, food banks, convenience stores, and other establishments engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry,



- and any other household consumer products (such as cleaning and personal care products). This includes stores that sell groceries and also sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences;
- iii. Food cultivation, including farming, livestock, and fishing;
 - iv. Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals;
 - v. Newspapers, television, radio, and other media services;
 - vi. Gas stations and auto-supply, auto-repair, and related facilities;
 - vii. Banks and related financial institutions;
 - viii. Hardware stores;
 - ix. Plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, Essential Activities, and Essential Businesses;
 - x. Businesses providing mailing and shipping services, including post office boxes;
 - xi. Educational institutions—including public and private K-12 schools, colleges, and universities—for purposes of facilitating distance learning or performing essential functions, provided that social distancing of six-feet per person is maintained to the greatest extent possible;
 - xii. Laundromats, drycleaners, and laundry service providers;
 - xiii. Restaurants and other facilities that prepare and serve food, but only for delivery or carry out. Schools and other entities that typically provide free food services to students or members of the public may continue to do so under this Order on the condition that the food is provided to students or members of the public on a pick-up and take-away basis only. Schools and other entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or at any other gathering site;
 - xiv. Businesses that supply products needed for people to work from home;
 - xv. Businesses that supply other essential businesses with the support or supplies necessary to operate;
 - xvi. Businesses that ship or deliver groceries, food, goods or services directly to residences;
 - xvii. Airlines, taxis, and other private transportation providers providing transportation services necessary for Essential Activities and other purposes expressly authorized in this Order;
 - xviii. Home-based care for seniors, adults, or children;
 - xix. Residential facilities and shelters for seniors, adults, and children;
 - xx. Professional services, such as legal or accounting services, when necessary to assist in compliance with legally mandated activities;
 - xxi. Childcare facilities providing services that enable employees exempted in this Order to work as permitted. To the extent possible, childcare facilities must operate under the following mandatory conditions:
 - 1. Childcare must be carried out in stable groups of 12 or fewer (“stable” means that the same 12 or fewer children are in the same group each day).
 - 2. Children shall not change from one group to another.



3. If more than one group of children is cared for at one facility, each group shall be in a separate room. Groups shall not mix with each other.
 4. Childcare providers shall remain solely with one group of children.
- g. For the purposes of this Order, “Minimum Basic Operations” include the following, provided that employees comply with Social Distancing Requirements as defined this Section, to the extent possible, while carrying out such operations:
- i. The minimum necessary activities to maintain the value of the business’s inventory, ensure security, process payroll and employee benefits, or for related functions.
 - ii. The minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences.
- h. For the purposes of this Order, “Essential Travel” includes travel for any of the following purposes. Individuals engaged in any Essential Travel must comply with all Social Distancing Requirements as defined in this Section below.
- i. Any travel related to the provision of or access to Essential Activities, Essential Governmental Functions, Essential Businesses, or Minimum Basic Operations.
 - ii. Travel to care for elderly, minors, dependents, persons with disabilities, or other vulnerable persons.
 - iii. Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services.
 - iv. Travel to return to a place of residence from outside the jurisdiction.
 - v. Travel required by law enforcement or court order.
 - vi. Travel required for non-residents to return to their place of residence outside the County. Individuals are strongly encouraged to verify that their transportation out of the County remains available and functional prior to commencing such travel.
- i. For purposes of this Order, residences include hotels, motels, shared rental units and similar facilities.
- j. For purposes of this Order, “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.
11. Pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Order. The violation of any provision of this Order constitutes an imminent threat to public health.
12. This Order shall become effective at 12:01 a.m. on March 17, 2020 and will continue to be in effect until 11:59 p.m. on April 7, 2020, or until it is extended, rescinded, superseded, or amended in writing by the Health Officer.



SAN MATEO COUNTY HEALTH

**PUBLIC HEALTH,
POLICY & PLANNING**

13. Copies of this Order shall promptly be: (1) made available at the County Government Center at 400 County Center, Redwood City, CA 94063; (2) posted on the County Public Health Department website (available at www.smchealth.org); and (3) provided to any member of the public requesting a copy of this Order.
14. If any provision of this Order to the application thereof to any person or circumstance is held to be invalid, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

IT IS SO ORDERED:

Scott Morrow MD, MPH
Health Officer of the County of San Mateo

Dated: March 16, 2020

EXHIBIT "12"



**ORDER OF THE HEALTH OFFICER
OF THE COUNTY OF CONTRA COSTA DIRECTING
ALL INDIVIDUALS LIVING IN THE COUNTY TO SHELTER AT THEIR
PLACE OF RESIDENCE EXCEPT THAT THEY MAY LEAVE TO
PROVIDE OR RECEIVE CERTAIN ESSENTIAL SERVICES OR
ENGAGE IN CERTAIN ESSENTIAL ACTIVITIES AND WORK FOR
ESSENTIAL BUSINESSES AND GOVERNMENTAL SERVICES;
EXEMPTING INDIVIDUALS EXPERIENCING HOMELESSNESS FROM
THE SHELTER IN PLACE ORDER BUT URGING THEM TO FIND
SHELTER AND GOVERNMENT AGENCIES TO PROVIDE IT;
DIRECTING ALL BUSINESSES AND GOVERNMENTAL AGENCIES TO
CEASE NON-ESSENTIAL OPERATIONS AT PHYSICAL LOCATIONS IN
THE COUNTY; PROHIBITING ALL NON-ESSENTIAL GATHERINGS
OF ANY NUMBER OF INDIVIDUALS; AND ORDERING CESSATION OF
ALL NON-ESSENTIAL TRAVEL**

DATE OF ORDER: MARCH 16, 2020

Please read this Order carefully. Violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both. (California Health and Safety Code § 120295, *et seq.*)

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040, AND 120175, THE HEALTH OFFICER OF THE COUNTY OF CONTRA COSTA ("HEALTH OFFICER") ORDERS:

- 1) The intent of this Order is to ensure that the maximum number of people self-isolate in their places of residence to the maximum extent feasible, while enabling essential services to continue, to slow the spread of COVID-19 to the maximum extent possible. When people need to leave their places of residence, whether to obtain or perform vital services, or to otherwise facilitate authorized activities necessary for continuity of social and commercial life, they should at all times reasonably possible comply with Social Distancing Requirements as defined in Section 10 below. All provisions of this Order should be interpreted to effectuate this intent. Failure to comply with any of the provisions of this Order constitutes an imminent threat to public health.
- 2) All individuals currently living within Contra Costa County (the "County") are ordered to shelter at their place of residence. To the extent individuals are using shared or outdoor spaces, they must at all times as reasonably possible maintain social distancing of at least six feet from any other person when they are outside their residence. All persons may leave their residences only for Essential Activities, Essential Governmental Functions, or to operate Essential Businesses, all



as defined in Section 10. Individuals experiencing homelessness are exempt from this Section, but are strongly urged to obtain shelter, and governmental and other entities are strongly urged to make such shelter available as soon as possible and to the maximum extent practicable (and to utilize Social Distancing Requirements in their operation).

- 3) All businesses with a facility in the County, except Essential Businesses as defined below in Section 10, are required to cease all activities at facilities located within the County except Minimum Basic Operations, as defined in Section 10. For clarity, businesses may also continue operations consisting exclusively of employees or contractors performing activities at their own residences (i.e., working from home). All Essential Businesses are strongly encouraged to remain open. To the greatest extent feasible, Essential Businesses shall comply with Social Distancing Requirements as defined in Section 10 below, including, but not limited to, when any customers are standing in line.
- 4) All public and private gatherings of any number of people occurring outside a household or living unit are prohibited, except for the limited purposes as expressly permitted in Section 10. Nothing in this Order prohibits the gathering of members of a household or living unit.
- 5) All travel, including, but not limited to, travel on foot, bicycle, scooter, motorcycle, automobile, or public transit, except Essential Travel and Essential Activities as defined below in Section 10, is prohibited. People must use public transit only for purposes of performing Essential Activities or to travel to and from work to operate Essential Businesses or maintain Essential Governmental Functions. People riding on public transit must comply with Social Distancing Requirements as defined in Section 10 below, to the greatest extent feasible. This Order allows travel into or out of the County to perform Essential Activities, operate Essential Businesses, or maintain Essential Governmental Functions.
- 6) This Order is issued based on evidence of increasing occurrence of COVID-19 within the County and throughout the Bay Area, scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically, and evidence that the age, condition, and health of a significant portion of the population of the County places it at risk for serious health complications, including death, from COVID-19. Due to the outbreak of the COVID-19 virus in the general public, which is now a pandemic according to the World Health Organization, there is a public health emergency throughout the County. Making the problem worse, some individuals who contract the COVID-19 virus have no symptoms or have mild symptoms, which means they may not be aware they carry the virus. Because even people without symptoms can transmit the disease, and because evidence shows the disease is easily spread, gatherings can result in preventable transmission of the virus. The scientific evidence shows that at this stage of the emergency, it is essential to slow virus transmission as much as possible to protect the most vulnerable and to prevent the health care system from being overwhelmed. One proven way to slow the transmission is to limit interactions among people to the greatest extent practicable. By reducing the spread of the COVID-19 virus, this Order helps preserve critical and limited healthcare capacity in the County.
- 7) This Order also is issued in light of the existence of 29 cases of COVID-19 in the County, as well as at least 258 confirmed cases and at least three deaths in the seven Bay Area jurisdictions jointly issuing this Order, as of 5 p.m. on March 15, 2020, including a significant and increasing number of suspected cases of community transmission and likely further significant increases in transmission. Widespread testing for COVID-19 is not yet available but is expected to increase in



the coming days. This Order is necessary to slow the rate of spread and the Health Officer will re-evaluate it as further data becomes available.

- 8) This Order is issued in accordance with, and incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom, This Order is issued in accordance with, and incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom and the March 10, 2020 Resolution of the Contra Costa County Board of Supervisors declaring the existence of a Local Emergency in Contra Costa County.
- 9) This Order comes after the release of substantial guidance from the County Health Officer, the Centers for Disease Control and Prevention, the California Department of Public Health, and other public health officials throughout the United States and around the world, including a variety of prior orders to combat the spread and harms of COVID-19. The Health Officer will continue to assess the quickly evolving situation and may modify or extend this Order, or issue additional Orders, related to COVID-19.

10) Definitions and Exemptions.

- a. For purposes of this Order, individuals may leave their residence only to perform any of the following “Essential Activities.” But people at high risk of severe illness from COVID-19 and people who are sick are urged to stay in their residence to the extent possible except as necessary to seek medical care.
 - i. To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members (including, but not limited to, pets), such as, by way of example only and without limitation, obtaining medical supplies or medication, visiting a health care professional, or obtaining supplies they need to work from home.
 - ii) To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example only and without limitation, canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products, and products necessary to maintain the safety, sanitation, and essential operation of residences.
 - iii) To engage in outdoor activity, provided the individuals comply with Social Distancing Requirements as defined in this Section, such as, by way of example and without limitation, walking, hiking, or running.
 - iv) To perform work providing essential products and services at an Essential Business or to otherwise carry out activities specifically permitted in this Order, including Minimum Basic Operations.
 - v) To care for a family member or pet in another household.
- b) For purposes of this Order, individuals may leave their residence to work for or obtain services at any “Healthcare Operations” including hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers, or any related and/or ancillary healthcare services. “Healthcare Operations” also includes veterinary care and all healthcare services provided to animals. This exemption shall be construed broadly to avoid any impacts to the delivery of healthcare, broadly defined. “Healthcare Operations” does not include fitness and exercise gyms and similar facilities.



- c) For purposes of this Order, individuals may leave their residence to provide any services or perform any work necessary to the operations and maintenance of “Essential Infrastructure,” including, but not limited to, public works construction, construction of housing (in particular affordable housing or housing for individuals experiencing homelessness), airport operations, water, sewer, gas, electrical, oil refining, roads and highways, public transportation, solid waste collection and removal, internet, and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services), provided that they carry out those services or that work in compliance with Social Distancing Requirements as defined this Section, to the extent possible.
- d) For purposes of this Order, all first responders, emergency management personnel, emergency dispatchers, court personnel, and law enforcement personnel, and others who need to perform essential services are categorically exempt from this Order. Further, nothing in this Order shall prohibit any individual from performing or accessing “Essential Governmental Functions,” as determined by the governmental entity performing those functions. Each governmental entity shall identify and designate appropriate employees or contractors to continue providing and carrying out any Essential Governmental Functions. All Essential Governmental Functions shall be performed in compliance with Social Distancing Requirements as defined in this Section, to the extent possible.
- e) For the purposes of this Order, covered businesses include any for-profit, non-profit, or educational entities, regardless of the nature of the service, the function they perform, or its corporate or entity structure.
- f) For the purposes of this Order, “Essential Businesses” means:
 - i) Healthcare Operations and Essential Infrastructure;
 - ii) Grocery stores, certified farmers’ markets, farm and produce stands, supermarkets, food banks, convenience stores, and other establishments engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products (such as cleaning and personal care products). This includes stores that sell groceries and also sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences;
 - iii) Food cultivation, including farming, livestock, and fishing;
 - iv) Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals;
 - v) Newspapers, television, radio, and other media services;
 - vi) Gas stations and auto-supply, auto-repair, and related facilities;
 - vii) Banks and related financial institutions;
 - viii) Hardware stores;
 - ix) Plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, Essential Activities, and Essential Businesses;
 - x) Businesses providing mailing and shipping services, including post office boxes;
 - xi) Educational institutions—including public and private K-12 schools, colleges, and universities—for purposes of facilitating distance learning or performing essential functions, provided that social distancing of six-feet per person is maintained to the greatest extent possible;
 - xii) Laundromats, drycleaners, and laundry service providers;
 - xiii) Restaurants and other facilities that prepare and serve food, but only for delivery or carry out. Schools and other entities that typically provide free food services to



students or members of the public may continue to do so under this Order on the condition that the food is provided to students or members of the public on a pick-up and take-away basis only. Schools and other entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or at any other gathering site;

- xiv) Businesses that supply products needed for people to work from home;
- xv) Businesses that supply other Essential Businesses with the support or supplies necessary to operate;
- xvi) Businesses that ship or deliver groceries, food, goods or services directly to residences;
- xvii) Airlines, taxis, and other private transportation providers providing transportation services necessary for Essential Activities and other purposes expressly authorized in this Order;
- xviii) Home-based care for seniors, adults, or children;
- xix) Residential facilities and shelters for seniors, adults, and children;
- xx) Professional services, such as legal or accounting services, when necessary to assist in compliance with legally mandated activities;
- xxi) Childcare facilities providing services that enable employees exempted in this Order to work as permitted. To the extent possible, childcare facilities must operate under the following mandatory conditions:
 - (1) Childcare must be carried out in stable groups of 12 or fewer (“stable” means that the same 12 or fewer children are in the same group each day).
 - (2) Children shall not change from one group to another.
 - (3) If more than one group of children is cared for at one facility, each group shall be in a separate room. Groups shall not mix with each other.
 - (4) Childcare providers shall remain solely with one group of children.
- g) For the purposes of this Order, “Minimum Basic Operations” include the following, provided that employees comply with Social Distancing Requirements as defined this Section, to the extent possible, while carrying out such operations:
 - i. The minimum necessary activities to maintain the value of the business’s inventory, ensure security, process payroll and employee benefits, or for related functions.
 - ii. The minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences.
- h) For the purposes of this Order, “Essential Travel” includes travel for any of the following purposes. Individuals engaged in any Essential Travel must comply with all Social Distancing Requirements as defined in this Section below.
 - i. Any travel related to the provision of or access to Essential Activities, Essential Governmental Functions, Essential Businesses, or Minimum Basic Operations.
 - ii. Travel to care for elderly, minors, dependents, persons with disabilities, or other vulnerable persons.
 - iii. Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services.
 - iv. Travel to or return from a place of residence outside the jurisdiction.
 - v. Travel required by law enforcement or court order.
 - vi. Travel required for non-residents to return to their place of residence outside the County. Individuals are strongly encouraged to verify that their transportation out of the County remains available and functional prior to commencing such travel.
- i) For purposes of this Order, residences include hotels, motels, shared rental units and similar facilities.



- j) For purposes of this Order, “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.
- 11) Pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Order. The violation of any provision of this Order constitutes an imminent threat to public health.
- 12) This Order shall become effective at 12:01 a.m. on March 17, 2020 and will continue to be in effect until 11:59 p.m. on April 7, 2020, or until it is extended, rescinded, superseded, or amended in writing by the Health Officer.
- 13) Copies of this Order shall promptly be: (1) made available at Office of the Director of Health of Contra Costa County, 1220 Morello Ave, Martinez CA 94553; (2) posted on the County Public Health Department website www.cchealth.org; and (3) provided to any member of the public requesting a copy of this Order.
- 14) If any provision of this Order to the application thereof to any person or circumstance is held to be invalid, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.
- 15) Questions or comments regarding this order may be directed to Contra Costa Health Services at 1-844-729-8410.

IT IS SO ORDERED:

Chris Farnitano, MD
Health Officer of the County of Contra Costa County



Ori Tzvieli, MD, Deputy Health Officer

Dated: March 16, 2020



EXHIBIT "13"



**ORDER OF THE HEALTH OFFICER
OF THE COUNTY OF CONTRA COSTA DIRECTING
ALL INDIVIDUALS LIVING IN THE COUNTY TO CONTINUE
SHELTERING AT THEIR PLACE OF RESIDENCE EXCEPT FOR
ESSENTIAL NEEDS; CONTINUING TO EXEMPT HOMELESS
INDIVIDUALS FROM THE ORDER BUT URGING GOVERNMENT
AGENCIES TO PROVIDE THEM SHELTER AND HAND SANITATION
FACILITIES; RESTRICTING ACCESS TO RECREATION AREAS;
REQUIRING ESSENTIAL BUSINESSES TO IMPLEMENT SOCIAL
DISTANCING PROTOCOLS; CLARIFYING AND FURTHER LIMITING
ESSENTIAL BUSINESS ACTIVITIES, INCLUDING CONSTRUCTION;
AND DIRECTING ALL BUSINESSES AND GOVERNMENTAL
OPERATIONS TO FURTHER CEASE NON-ESSENTIAL OPERATIONS**

Order No. HO-COVID19-03

DATE OF ORDER: MARCH 31, 2020

Please read this Order carefully. Violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both. (California Health and Safety Code § 120295.)

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040 AND 120175, THE HEALTH OFFICER OF THE COUNTY OF CONTRA COSTA ("HEALTH OFFICER") ORDERS:

1. This Order supersedes the March 16, 2020, Order of the Health Officer directing all individuals to shelter in place ("Prior Shelter Order"). This Order clarifies, strengthens, and extends certain terms of the Prior Shelter Order to increase social distancing and reduce person-to-person contact in order to further slow transmission of Novel Coronavirus Disease 2019 ("COVID-19"). As of the effective date and time of this Order set forth in Section 16 below, all individuals, businesses and government agencies in the County of Contra Costa ("County") are required to follow the provisions of this Order.



2. The intent of this Order is to ensure that the maximum number of people shelter in their places of residence to the maximum extent feasible to slow the spread of COVID-19 and mitigate the impact on delivery of critical healthcare services to those in need. All provisions of this Order must be interpreted to effectuate this intent. Failure to comply with any of the provisions of this Order constitutes an imminent threat and menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment, or both.
3. All individuals currently living within the County are ordered to shelter at their place of residence. They may leave their residence only for Essential Activities, for Essential Governmental Functions, Essential Travel, to work for Essential Businesses, or to perform Minimum Basic Operations for non-essential businesses, all as defined in Section 13. Individuals experiencing homelessness are exempt from this Section, but are strongly urged to obtain shelter, and governmental and other entities are strongly urged to, as soon as possible, make such shelter available and provide handwashing or hand sanitation facilities to persons who continue experiencing homelessness.
4. When people need to leave their place of residence for the limited purposes allowed in this Order, they must strictly comply with Social Distancing Requirements as defined in Section 13.k, except as expressly provided in this Order.
5. All businesses with a facility in the County, except Essential Businesses, as defined in Section 13.f, are required to cease all activities at facilities located within the County except Minimum Basic Operations, as defined in Section 13.g. For clarity, all businesses may continue operations consisting exclusively of owners, employees, volunteers, or contractors performing activities at their own residences (i.e., working from home). All Essential Businesses are strongly encouraged to remain open. But Essential Businesses are directed to maximize the number of employees who work from home. Essential Businesses may only assign those employees who cannot perform their job duties from home to work outside the home. All Essential Businesses shall prepare, post, and implement a Social Distancing Protocol at each of their facilities at which they are maintaining operations, as specified in Section 13.h. Businesses that include an Essential Business component at their facilities alongside non-essential components must, to the extent feasible, scale down their operations to the Essential Business component only; provided, however, that mixed retail businesses that are otherwise allowed to operate under this Order may continue to stock and sell non-essential products. Essential Businesses must follow industry-specific guidance issued by the Health Officer related to COVID-19.
6. All public and private gatherings of any number of people occurring outside a single household or living unit are prohibited, except for the limited purposes expressly permitted in this Order. Nothing in this Order prohibits members of a single household or living unit from engaging in Essential Travel or Essential Activities together.
7. All travel, including, but not limited to, travel on foot, bicycle, scooter, motorcycle, automobile, or public transit, except Essential Travel, as defined below in Section 13.i, is



prohibited. People may use public transit only for purposes of performing Essential Activities or to travel to and from work to operate Essential Businesses, maintain Essential Governmental Functions, or to perform Minimum Basic Operations at non-essential businesses. Transit agencies and people riding on public transit must comply with Social Distancing Requirements, as defined in Section 13.k, to the greatest extent feasible. This Order allows travel into or out of the County only to perform Essential Activities, operate Essential Businesses, maintain Essential Governmental Functions, or perform Minimum Basic Operations at non-essential businesses.

8. This Order is issued based on evidence of increasing occurrence of COVID-19 within the County and throughout the Bay Area, scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically, and evidence that the age, condition, and health of a significant portion of the population of the County places it at risk for serious health complications, including death, from COVID-19. Due to the outbreak of the COVID-19 disease in the general public, which is now a pandemic according to the World Health Organization, there is a public health emergency throughout the County. Making the problem worse, some individuals who contract the virus causing the COVID-19 disease have no symptoms or have mild symptoms, which means they may not be aware they carry the virus and are transmitting it to others. Because even people without symptoms can transmit the infection, and because evidence shows the infection is easily spread, gatherings and other interpersonal interactions can result in preventable transmission of the virus. This public health emergency has substantially worsened since the County issued the Prior Shelter Order on March 16, 2020, with a significant escalation in the number of positive cases, hospitalizations, and deaths, and increasing strain on health care resources. At the same time, evidence suggests that the restrictions on mobility and social distancing requirements imposed by the Prior Shelter Order are slowing the rate of increase in community transmission and confirmed cases by limiting interactions among people, consistent with scientific evidence of the efficacy of similar measures in other parts of the country and world. The scientific evidence shows that at this stage of the emergency, it remains essential to continue to slow virus transmission as much as possible to protect the most vulnerable, to prevent the health care system from being overwhelmed, and to prevent deaths. Extension of the Prior Shelter Order and strengthening of its restrictions are necessary to further reduce the spread of the COVID-19 disease, preserving critical and limited healthcare capacity in the County and advancing toward a point in the public health emergency where transmission can be controlled.
9. This Order is also issued in light of the existence, as of March 29, 2020, of 175 cases of COVID-19 in the County, as well as at least 2,092 confirmed cases (up from 258 confirmed cases on March 15, 2020, just before the Prior Shelter Order) and at least 51 deaths (up from three deaths on March 15, 2020) in the seven Bay Area jurisdictions jointly issuing this Order, including a significant and increasing number of suspected cases of community transmission and likely further significant increases in transmission. This Order is necessary to slow the rate of spread, and the Health Officer will re-evaluate it as further data becomes available.



10. This Order is issued in accordance with, and incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom, the March 12, 2020, Executive Order (Executive Order N-25-20) issued by Governor Gavin Newsom and the March 10, 2020, Proclamation by the Contra Costa County Board of Supervisors declaring the existence of a local emergency.
11. This Order is issued in light of evidence that the Prior Shelter Order has been generally effective in increasing social distancing, but that at this time additional restrictions are necessary to further mitigate the rate of transmission of COVID-19, to prevent the health care system from being overwhelmed, and prevent death. This Order comes after the release of substantial guidance from the County Health Officer, the Centers for Disease Control and Prevention, the California Department of Public Health, and other public health officials throughout the United States and around the world, including an increasing number of orders imposing similar social distancing requirements and mobility restrictions to combat the spread and harms of COVID-19. The Health Officer will continue to assess the quickly evolving situation and may modify or extend this Order, or issue additional Orders, related to COVID-19, as changing circumstances dictate.
12. This Order is also issued in light of the March 19, 2020 Order of the State Public Health Officer (the "State Shelter Order"), which set baseline statewide restrictions on non-residential business activities effective until further notice, as well as the Governor's March 19, 2020, Executive Order N-33-20, directing California residents to follow the State Shelter Order. The State Shelter Order was complementary to the Prior Shelter Order. This Order adopts in certain respects more stringent restrictions addressing the particular facts and circumstances in this County, which are necessary to control the public health emergency as it is evolving within the County and the Bay Area. Without this tailored set of restrictions that further reduces the number of interactions between persons, scientific evidence indicates that the public health crisis in the County will worsen to the point at which it may overtake available health care resources within the County and increase the death rate. Also, this Order enumerates additional restrictions on non-work-related travel not covered by the State Shelter Order, including limiting such travel to performance of Essential Travel or Essential Activities; sets forth mandatory Social Distancing Requirements for all individuals in the County when engaged in activities outside their residences; and adds a mechanism to ensure that Essential Businesses comply with the Social Distancing Requirements. Where a conflict exists between this Order and any state public health order related to the COVID-19 pandemic, the most restrictive provision controls. Consistent with California Health and Safety Code section 131080 and the Health Officer Practice Guide for Communicable Disease Control in California, except where the State Public Health Officer may issue an order expressly directed at this Order and based on a finding that a provision of this Order constitutes a menace to public health, any more restrictive measures in this Order continue to apply and control in this County.



13. Definitions and Exemptions.

- a. For the purposes of this Order, individuals may leave their residence only to perform the following “Essential Activities.” But people at high risk of severe illness from COVID-19 and people who are sick are strongly urged to stay in their residence to the extent possible, except as necessary to seek or provide medical care or Essential Governmental Functions. Essential Activities are:
- i. To engage in activities or perform tasks important to their health and safety, or to the health and safety of their family or household members (including pets), such as, by way of example only and without limitation, obtaining medical supplies or medication, or visiting a health care professional.
 - ii. To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example only and without limitation, canned food, dry goods, fresh fruits and vegetables, pet supplies, fresh meats, fish, and poultry, and any other household consumer products, products needed to work from home, or products necessary to maintain the habitability, sanitation, and operation of residences.
 - iii. To engage in outdoor recreation activity, including, by way of example and without limitation, walking, hiking, bicycling, and running, in compliance with Social Distancing Requirements and with the following limitations:
 1. Outdoor recreation activity at parks, beaches, and other open spaces must be in conformance with any restrictions on access and use established by the Health Officer, government, or other entity that manages such area to reduce crowding and risk of transmission of COVID-19. Such restrictions may include, but are not limited to, restricting the number of entrants, closing the area to vehicular access and parking, or closure to all public access;
 2. Use of recreational areas with high-touch equipment or that encourage gathering, including, but not limited to, playgrounds, outdoor gym equipment, picnic areas, dog parks, and barbecue areas, is prohibited outside of residences, and all such areas shall be closed to public access including by signage and, as appropriate, by physical barriers;
 3. Use of shared facilities for recreational activities outside of residences, including, but not limited to, golf courses, tennis and pickle ball courts, rock parks, climbing walls, pools, spas, shooting and archery ranges, gyms, disc golf, and basketball courts is prohibited and those areas must be closed for recreational purposes, including by signage and, as appropriate, by physical barriers. Such facilities may be repurposed during the emergency to provide essential services needed to address the COVID-19 pandemic; and



4. Sports or activities that include the use of shared equipment may only be engaged in by members of the same household or living unit.
 - iv. To perform work for an Essential Business or to otherwise carry out activities specifically permitted in this Order, including Minimum Basic Operations, as defined in this Section.
 - v. To provide necessary care for a family member or pet in another household who has no other source of care.
 - vi. To attend a funeral with no more than 10 individuals present.
 - vii. To move residences, but only if it is not possible to defer an already planned move, if the move is necessitated by safety, sanitation, or habitability reasons, or if the move is necessary to preserve access to shelter. When moving into or out of the Bay Area region, individuals are strongly urged to quarantine for 14 days. To quarantine, individuals should follow the guidance of the Centers for Disease Control and Prevention.
- b. For the purposes of this Order, individuals may leave their residence to work for, volunteer at, or obtain services at "Healthcare Operations," including, without limitation, hospitals, clinics, COVID-19 testing locations, dentists, pharmacies, blood banks and blood drives, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers, or any related and/or ancillary healthcare services. "Healthcare Operations" also includes veterinary care and all healthcare services provided to animals. This exemption for Healthcare Operations shall be construed broadly to avoid any interference with the delivery of healthcare, broadly defined. "Healthcare Operations" excludes fitness and exercise gyms and similar facilities.
- c. For the purposes of this Order, individuals may leave their residence to provide any services or perform any work necessary to the operation and maintenance of "Essential Infrastructure," including airports, utilities (including water, sewer, gas, and electrical), oil refining, roads and highways, public transportation, solid waste facilities (including collection, removal, disposal, and processing facilities), cemeteries, mortuaries, crematoriums, and telecommunications systems (including the provision of essential global, national, and local infrastructure for internet, computing services, business infrastructure, communications, and web-based services).
- d. For the purposes of this Order, all first responders, emergency management personnel, emergency dispatchers, court personnel, and law enforcement personnel, and others who need to perform essential services are categorically exempt from this Order to the extent they are performing those essential services. Further, nothing in this Order shall prohibit any individual from performing or accessing "Essential Governmental Functions," as determined by the governmental entity performing those functions in the County. Each



governmental entity shall identify and designate appropriate employees, volunteers, or contractors to continue providing and carrying out any Essential Governmental Functions, including the hiring or retention of new employees or contractors to perform such functions. Each governmental entity and its contractors must employ all necessary emergency protective measures to prevent, mitigate, respond to and recover from the COVID-19 pandemic, and all Essential Governmental Functions shall be performed in compliance with Social Distancing Requirements to the greatest extent feasible.

- e. For the purposes of this Order, a “business” includes any for-profit, non-profit, or educational entity, whether a corporate entity, organization, partnership or sole proprietorship, and regardless of the nature of the service, the function it performs, or its corporate or entity structure.
- f. For the purposes of this Order, “Essential Businesses” are:
 - i. Healthcare Operations and businesses that operate, maintain, or repair Essential Infrastructure;
 - ii. Grocery stores, certified farmers’ markets, farm and produce stands, supermarkets, food banks, convenience stores, and other establishments engaged in the retail sale of unprepared food, canned food, dry goods, non-alcoholic beverages, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, as well as hygienic products and household consumer products necessary for personal hygiene or the habitability, sanitation, or operation of residences. The businesses included in this subparagraph (ii) include establishments that sell multiple categories of products provided that they sell a significant amount of essential products identified in this subparagraph, such as liquor stores that also sell a significant amount of food.
 - iii. Food cultivation, including farming, livestock, and fishing;
 - iv. Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals;
 - v. Construction, but only of the types listed in this subparagraph below:
 - 1. Projects immediately necessary to the maintenance, operation or repair of Essential Infrastructure;
 - 2. Projects associated with Healthcare Operations, including creating or expanding Healthcare Operations, provided that such construction is directly related to the COVID-19 response;
 - 3. Affordable housing that is or will be income-restricted, including multi-unit or mixed-use developments containing at least 10% income-restricted units;
 - 4. Public works projects if specifically designated as an Essential Governmental Function by the lead governmental agency;
 - 5. Shelters and temporary housing, but not including hotels or motels;
 - 6. Projects immediately necessary to provide critical non-commercial services to individuals experiencing homelessness, elderly persons,



persons who are economically disadvantaged, and persons with special needs;

7. Construction necessary to ensure that existing construction sites that must be shut down under this Order are left in a safe and secure manner, but only to the extent necessary to do so; and
 8. Construction or repair necessary to ensure that residences and buildings containing Essential Businesses are safe, sanitary, or habitable to the extent such construction or repair cannot reasonably be delayed;
- vi. Newspapers, television, radio, and other media services;
 - vii. Gas stations and auto-supply, auto-repair (including, but not limited to, for cars, trucks, motorcycles and motorized scooters), and automotive dealerships, but only for the purpose of providing auto-supply and auto-repair services (and not, by way of example, car sales or car washes). This subparagraph (vii) does not restrict the on-line purchase of automobiles if they are delivered to a residence or Essential Business;
 - viii. Bicycle repair and supply shops;
 - ix. Banks and related financial institutions;
 - x. Service providers that enable residential transactions (including rentals, leases, and home sales), including, but not limited to, real estate agents, escrow agents, notaries, and title companies, provided that appointments and other residential viewings must only occur virtually or, if a virtual viewing is not feasible, by appointment with no more than two visitors at a time residing within the same household or living unit and one individual showing the unit (except that in person visits are not allowed when the occupant is still residing in the residence);
 - xi. Hardware stores;
 - xii. Plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the habitability, sanitation, and operation of residences and Essential Businesses, but not for cosmetic or other purposes;
 - xiii. Arborists, landscapers, gardeners, and similar service professionals, but only to the limited extent necessary to maintain the habitability, sanitation, operation of businesses or residences, or the safety of residents, employees, or the public (such as fire safety or tree trimming to prevent a dangerous condition), and not for cosmetic or other purposes (such as upkeep);
 - xiv. Businesses providing mailing and shipping services, including post office boxes;
 - xv. Educational institutions—including public and private K-12 schools, colleges, and universities—for purposes of facilitating distance learning or performing essential functions, provided that social distancing of six-feet per person is maintained to the greatest extent possible;
 - xvi. Laundromats, drycleaners, and laundry service providers;
 - xvii. Restaurants and other facilities that prepare and serve food, but only for delivery or carry out. Schools and other entities that typically provide free



food services to students or members of the public may continue to do so under this Order on the condition that the food is provided to students or members of the public on a pick-up and take-away basis only. Schools and other entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or at any other gathering site;

- xviii. Funeral home providers, mortuaries, cemeteries, and crematoriums, to the extent necessary for the transport, preparation, or processing of bodies or remains;
- xix. Businesses that supply other Essential Businesses with the support or supplies necessary to operate, but only to the extent that they support or supply these Essential Businesses. This exemption shall not be used as a basis for engaging in sales to the general public from retail storefronts;
- xx. Businesses that have the primary function of shipping or delivering groceries, food, or other goods directly to residences or businesses. This exemption shall not be used to allow for manufacturing or assembly of non-essential products or for other functions besides those necessary to the delivery operation;
- xxi. Airlines, taxis, rental car companies, rideshare services (including shared bicycles and scooters), and other private transportation providers providing transportation services necessary for Essential Activities and other purposes expressly authorized in this Order;
- xxii. Home-based care for seniors, adults, children, and pets;
- xxiii. Residential facilities and shelters for seniors, adults, and children;
- xxiv. Professional services, such as legal, notary, or accounting services, when necessary to assist in compliance with non-elective, legally required activities;
- xxv. Services to assist individuals in finding employment with Essential Businesses;
- xxvi. Moving services that facilitate residential or commercial moves that are allowed under this Order;
- xxvii. Childcare facilities providing services that enable owners, employees, volunteers, and contractors for Essential Businesses, Essential Governmental Functions, or Minimum Basic Operations to work as allowed under this Order. Children of owners, employees, volunteers, and contractors who are not exempt under this Order may not attend childcare facilities. To the extent possible, childcare facilities must operate under the following conditions:
 - 1. Childcare must be carried out in stable groups of 12 or fewer ("stable" means that the same 12 or fewer children are in the same group each day).
 - 2. Children shall not change from one group to another.
 - 3. If more than one group of children is cared for at one facility, each group shall be in a separate room. Groups shall not mix with each other.
 - 4. Childcare providers shall remain solely with one group of children.



- g. For the purposes of this Order, "Minimum Basic Operations" means the following activities for businesses, provided that owners, employees, and contractors comply with Social Distancing Requirements as defined this Section, to the extent possible, while carrying out such operations:
- i. The minimum necessary activities to maintain and protect the value of the business's inventory and facilities; ensure security, safety, and sanitation; process payroll and employee benefits; provide for the delivery of existing inventory directly to residences or businesses; and related functions.
 - ii. The minimum necessary activities to facilitate owners, employees, and contractors of the business being able to continue to work remotely from their residences, and to ensure that the business can deliver its service remotely.
- h. For the purposes of this Order, all Essential Businesses must prepare and post by no later than 11:59 p.m. on April 2, 2020, a "Social Distancing Protocol" for each of their facilities in the County frequented by the public or employees. The Social Distancing Protocol must be substantially in the form attached to this Order as Appendix A. The Social Distancing Protocol must be posted at or near the entrance of the relevant facility, and shall be easily viewable by the public and employees. A copy of the Social Distancing Protocol must also be provided to each employee performing work at the facility. All Essential Businesses shall implement the Social Distancing Protocol and provide evidence of its implementation to any authority enforcing this Order upon demand. The Social Distancing Protocol must explain how the business is achieving the following, as applicable:
- i. Limiting the number of people who can enter into the facility at any one time to ensure that people in the facility can easily maintain a minimum six-foot distance from one another at all times, except as required to complete the Essential Business activity;
 - ii. Where lines may form at a facility, marking six-foot increments at a minimum, establishing where individuals should stand to maintain adequate social distancing;
 - iii. Providing hand sanitizer, soap and water, or effective disinfectant at or near the entrance of the facility and in other appropriate areas for use by the public and employees, and in locations where there is high-frequency employee interaction with members of the public (e.g. cashiers);
 - iv. Providing for contactless payment systems or, if not feasible to do so, the providing for disinfecting all payment portals, pens, and styluses after each use;
 - v. Regularly disinfecting other high-touch surfaces; and
 - vi. Posting a sign at the entrance of the facility informing all employees and customers that they should: avoid entering the facility if they have a cough or fever; maintain a minimum six-foot distance from one another; sneeze and cough into one's elbow; not shake hands or engage in any unnecessary physical contact.



- vii. Any additional social distancing measures being implemented (see the Centers for Disease Control and Prevention's guidance at: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>).
- i. For the purposes of this Order, "Essential Travel" means travel for any of the following purposes:
 - i. Travel related to the provision of or access to Essential Activities, Essential Governmental Functions, Essential Businesses, or Minimum Basic Operations.
 - ii. Travel to care for any elderly, minors, dependents, or persons with disabilities.
 - iii. Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services.
 - iv. Travel to return to a place of residence from outside the County.
 - v. Travel required by law enforcement or court order.
 - vi. Travel required for non-residents to return to their place of residence outside the County. Individuals are strongly encouraged to verify that their transportation out of the County remains available and functional prior to commencing such travel.
 - vii. Travel to manage after-death arrangements and burial.
 - viii. Travel to arrange for shelter or avoid homelessness.
 - ix. Travel to avoid domestic violence or child abuse.
 - x. Travel for parental custody arrangements.
 - xi. Travel to a place to temporarily reside in a residence or other facility to avoid potentially exposing others to COVID-19, such as a hotel or other facility provided by a governmental authority for such purposes.
- j. For purposes of this Order, "residences" include hotels, motels, shared rental units and similar facilities. Residences also include living structures and outdoor spaces associated with those living structures, such as patios, porches, backyards, and front yards that are only accessible to a single family or household unit.
- k. For purposes of this Order, "Social Distancing Requirements" means:
 - i. Maintaining at least six-foot social distancing from individuals who are not part of the same household or living unit;
 - ii. Frequently washing hands with soap and water for at least 20 seconds, or using hand sanitizer that is recognized by the Centers for Disease Control and Prevention as effective in combatting COVID-19;
 - iii. Covering coughs and sneezes with a tissue or fabric or, if not possible, into the sleeve or elbow (but not into hands); and
 - iv. Avoiding all social interaction outside the household when sick with a fever or cough.

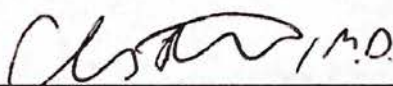
All individuals must strictly comply with Social Distancing Requirements, except to the limited extent necessary to provide care (including childcare, adult or senior



care, care to individuals with special needs, and patient care); as necessary to carry out the work of Essential Businesses, Essential Governmental Functions, or provide for Minimum Basic Operations; or as otherwise expressly provided in this Order.

14. Government agencies and other entities operating shelters and other facilities that house or provide meals or other necessities of life for individuals experiencing homelessness must take appropriate steps to help ensure compliance with Social Distancing Requirements, including adequate provision of hand sanitizer. Also, individuals experiencing homelessness who are unsheltered and living in encampments should, to the maximum extent feasible, abide by 12 foot by 12 foot distancing for the placement of tents, and government agencies should provide restroom and hand washing facilities for individuals in such encampments as set forth in Centers for Disease Control and Prevention Interim Guidance Responding to Coronavirus 2019 (COVID-19) Among People Experiencing Unsheltered Homelessness (<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/unsheltered-homelessness.html>).
15. Pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Order. The violation of any provision of this Order constitutes an imminent threat and menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment, or both.
16. This Order shall become effective at 11:59 p.m. on March 31, 2020, and will continue to be in effect until 11:59 p.m. on May 3, 2020, or until it is extended, rescinded, superseded, or amended in writing by the Health Officer.
17. Copies of this Order shall promptly be: (1) made available at the Office of the Director of Contra Costa Health Services, 1220 Morello Avenue, Suite 200, Martinez, CA 94553; (2) posted on the Contra Costa Health Services website (<https://www.cchealth.org>); and (3) provided to any member of the public requesting a copy of this Order. Questions or comments regarding this Order may be directed to Contra Costa Health Services at (844)729-8410.
18. If any provision of this Order to its application to any person or circumstance is held to be invalid, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

IT IS SO ORDERED:


Chris Farnitano, M.D.
Health Officer of the County of Contra Costa

Dated: March 31, 2020



Attachments: Appendix A – Social Distancing Protocol



EXHIBIT "14"



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Bay Area Health Officers Issue Updated Stay-at- Home Order with New Restrictions to Last Through May 3

***More time and additional restrictions
needed to slow the spread and reduce future
impact on local hospitals from COVID-19***

For Immediate Release

March 31, 2020

Health officers in seven Bay Area jurisdictions are extending a previous stay-at-home order through May 3, 2020 in order to preserve critical hospital capacity across the region.

The previous three-week order was set to expire on April 7. While the prior order has been effective in reducing the rate of transmission of the novel

0119

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coronavirus (COVID-19), it is not enough. There has been a significant increase in the number of positive cases, hospitalization and deaths from COVID-19, which is beginning to strain healthcare resources.

The health officers have determined that more and stricter social distancing is needed to slow the rate of spread, prevent deaths, and stop the health care system from becoming overwhelmed.

"Extending the stay-at-home order should reduce the number of sick patients seeking care at one time, giving us time to acquire more medical supplies for providers who will be providing care to people sick with COVID-19. The extension will allow doctors and nurses to better treat those who do get sick, and save countless lives," said Dr. Chris Farnitano, health officer for Contra Costa County.

The new stay-at-home order will supersede the previous order and go into effect at 11:59 p.m. on Tuesday, March 31. It is a complement to the indefinite statewide stay-at-home order issued by Gov. Gavin Newsom earlier this month.

Like the previous local order, the new order requires people to stay at home except for doing essential activities, such as grocery shopping, in six counties: Alameda, Contra Costa, Marin, San Francisco, San Mateo, and Santa Clara, as well as the city of Berkeley. Non-essential businesses will remain closed.

The new order adds some clarifying language around essential business and activities, as well as some new directives, including:

- Use of playgrounds, dog parks, public picnic areas, and similar recreational areas is

prohibited. These areas must be closed to public use.

- Use of shared public recreational facilities such as golf courses, tennis and basketball courts, pools, and rock walls is prohibited. These facilities must be closed for recreational use.
- Sports requiring people to share a ball or other equipment must be limited to people in the same household
- Requires essential businesses to develop a social distancing protocol before April 3
- Most construction—residential and commercial—is prohibited
- Funerals limited to no more than 10 people attending
- Essential businesses expanded to include service providers that enable residential transactions (notaries, title companies, Realtors, etc.); funeral homes and cemeteries; moving companies, rental car companies and rideshare services that specifically enable essential activities
- Essential businesses that continue to operate facilities must scale down operations to their essential component only

Social distancing is the most powerful tool to slow the spread of COVID-19, a virus so new that it has no approved medicines or vaccines.

"What we need now, for the health of all our communities, is for people to stay home," said Dr. Grant Colfax, director of the San Francisco Department of Public Health. "Even though it has been difficult, the Bay Area has really stepped up to the challenge so far, and we need to reaffirm our commitment. We need more time to flatten the curve, to prepare our hospitals

for a surge, and to do everything we can to minimize the harm that the virus causes to our communities."

For more information about COVID-19 activities in these areas, [Alameda](#), [Contra Costa](#), [Marin](#), [Santa Clara](#), [San Francisco](#), [San Mateo](#), or [Berkeley](#) COVID-19 websites.

#

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Public Health

Website: <http://www.sccphd.org/coronavirus>

Public Health

Facebook: <https://www.facebook.com/sccpublichealth>

Full Link to Public Health Data

Dashboard: <https://www.sccgov.org/sites/phd/DiseaseInformation/novel-coronavirus/Pages/dashboard.aspx>

- [Link to full text of the Order](#)

Last updated: 3/31/2020 12:14 PM

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EXHIBIT "15"



TLP:WHITE

GUIDANCE ON THE ESSENTIAL CRITICAL INFRASTRUCTURE WORKFORCE

March 28, 2020

Read the Guidance on the Essential Critical Infrastructure Workforce

MEMORANDUM ON IDENTIFICATION OF ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS DURING COVID-19 RESPONSE

FROM: Christopher C. Krebs
Director
Cybersecurity and Infrastructure Security Agency (CISA)

As the Nation comes together to slow the spread of COVID-19, on March 16th the President issued updated Coronavirus Guidance for America that highlighted the importance of the critical infrastructure workforce.

The Cybersecurity and Infrastructure Security Agency (CISA) executes the Secretary of Homeland Security's authorities to secure critical infrastructure. Consistent with these authorities, CISA has developed, in collaboration with other federal agencies, State and local governments, and the private sector, an "Essential Critical Infrastructure Workforce" advisory list. This list is intended to help State, local, tribal and territorial officials as they work to protect their communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security. Decisions informed by this list should also take into consideration additional public health considerations based on the specific COVID-19-related concerns of particular jurisdictions.

This list is advisory in nature. It is not, nor should it be considered, a federal directive or standard. Additionally, this advisory list is not intended to be the exclusive list of critical infrastructure sectors, workers, and functions that should continue during the COVID-19 response across all jurisdictions.

TLP:WHITE

Individual jurisdictions should add or subtract essential workforce categories based on requirements and discretion. TLP:WHITE

The advisory list identifies workers who conduct a range of operations and services that are typically essential to continued critical infrastructure viability, including staffing operations centers, maintaining and repairing critical infrastructure, operating call centers, working construction, and performing operational functions, among others. It also includes workers who support crucial supply chains and enable functions for critical infrastructure. The industries they support represent, but are not limited to, medical and healthcare, telecommunications, information technology systems, defense, food and agriculture, transportation and logistics, energy, water and wastewater, law enforcement, and public works.

State, local, tribal, and territorial governments are responsible for implementing and executing response activities, including decisions about access and reentry, in their communities, while the Federal Government is in a supporting role. Officials should use their own judgment in issuing implementation directives and guidance. Similarly, while adhering to relevant public health guidance, critical infrastructure owners and operators are expected to use their own judgement on issues of the prioritization of business processes and workforce allocation to best ensure continuity of the essential goods and services they support. All decisions should appropriately balance public safety, the health and safety of the workforce, and the continued delivery of essential critical infrastructure services and functions. While this advisory list is meant to help public officials and employers identify essential work functions, it allows for the reality that some workers engaged in activity determined to be essential may be unable to perform those functions because of health-related concerns.

CISA will continue to work with our partners in the critical infrastructure community to update this advisory list if necessary as the Nation's response to COVID-19 evolves.

Should you have questions about this list, please contact CISA at CISA.CAT@cisa.dhs.gov.

Attachment: “Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response Version 2.0”

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THE IMPORTANCE OF ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS

CONSIDERATIONS FOR GOVERNMENT AND BUSINESS

IDENTIFYING ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS

HEALTHCARE / PUBLIC HEALTH

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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JANICE ALTMAN, *et al.*,
Plaintiffs,

vs.

COUNTY OF SANTA CLARA,
CALIFORNIA, *et al.*,

Defendants.

Case No. 4:20-cv-02180-JST

**DECLARATION OF JANICE ALTMAN
IN SUPPORT OF PLAINTIFFS' EX
PARTE APPLICATION FOR
TEMPORARY RESTRAINING ORDER,
OR IN THE ALTERNATIVE,
ISSUANCE OF PRELIMINARY
INJUNCTION**

DECLARATION OF JANICE ALTMAN

I, Janice Altman, declare as follows:

1. I am an adult resident of the City of San Jose, County of Santa Clara,

1 California, and am a named plaintiff in the above matter. I have personal
2 knowledge of the facts stated herein, and if called as a witness, I could
3 competently testify to these facts.
4

5 2. This declaration is executed in support of Plaintiffs' Application for
6 Temporary Restraining Order and Issuance of Preliminary Injunction.
7

8 3. In light of the developing situation involving the spread of COVID-19, I
9 became concerned about inmate releases, crime, and other current and
10 possible dangers caused by the coronavirus pandemic.
11

12 4. I am not prohibited from possessing firearms or ammunition under federal and
13 state law.
14

15 5. I desire to exercise my fundamental right to keep and bear arms for self-
16 defense and purchase a firearm and ammunition for self-defense and other
17 purposes. I also desire to exercise my fundamental right to practice proficiency
18 shooting with firearms and ammunition.
19

20 6. But for the Defendants' Orders and actions and reasonable fear of prosecution
21 under those Orders and enforcement actions, I would acquire firearms and
22 ammunition, and practice proficiency and safety with those arms and
23 ammunition at a shooting range, for lawful and constitutionally protected
24 purposes including self-defense.
25
26

27 7. Unlike other constitutionally protected products that can be purchased online
28

1 and shipped directly to me, under federal and state law, I cannot purchase a
2 firearm online and have it shipped to my home.

3
4 8. Unlike individuals in other states, under State law, I cannot lawfully purchase
5 ammunition online and have it shipped directly to my home.

6
7 9. In order for me to comply with federal and State law, I can only acquire and
8 take possession of firearms in a face to face transaction at a duly licensed
9 firearm retailer.

10
11 10. In order for me to comply with California law, I can only acquire and take
12 possession of ammunition in a face to face transaction at a duly licensed
13 firearms retailer or ammunition vendor.

14
15 11. Firearm and ammunition product manufacturers, retailers, importers,
16 distributors, and shooting ranges are “Essential Businesses” to me because, in
17 order for me to comply with California law, I can only purchase firearms and
18 ammunition personally, in face to face transactions, at a licensed firearm
19 and/or ammunition vendor.
20

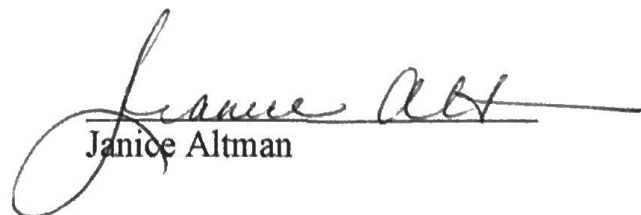
21
22 12. Defendants’ Orders and actions have resulted in firearm and ammunition
23 retailers and shooting ranges being closed in where I reside, in the City of San
24 Jose and the County of Santa Clara, and in other neighboring and nearby cities
25 and counties, including the County of Alameda, the County of San Mateo, and
26 the County of Contra Costa, among other jurisdictions.
27
28

1 13. I possess a valid firearms safety certificate ("FSC") as required by the State of
2 California in order to purchase or acquire a firearm.

3
4 14. I want to exercise my right to acquire, keep, bear, and practice proficiency
5 training and shooting with arms – including firearms, ammunition, magazines,
6 and appurtenances – for lawful purposes including self-defense, and would do
7 so, but for the reasonable and imminent fear of arrest and criminal prosecution
8 under Defendants' laws, policies, orders, practices, customs, and enforcement.
9

10 15. Accordingly, and for reasons set for in Plaintiffs' application and motion, I
11 respectfully ask this Court to grant the application and/or motion for
12 preliminary injunction.
13
14

15 I declare under penalty of perjury that the foregoing is true and correct. Executed
16 on April 9, 2020.
17

18
19 
20 Janice Altman
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28

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Plaintiffs,

vs.

COUNTY OF SANTA CLARA,
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Defendants.

Case No. 4:20-cv-02180-JST

**DECLARATION OF MICHAEL
BARYLA IN SUPPORT OF
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND
ISSUANCE OF PRELIMINARY
INJUNCTION**

DECLARATION OF MICHAEL BARYLA

I, Michael Baryla, declare as follows:

1. I am the President of Plaintiff California Association of Federal Firearms Licensees, Inc. ("CAL-FFL").

2. CAL-FFL is a 501(c)6 non-profit organization incorporated under the laws of California, with a place of business in Sacramento, California.
3. The State's only California-based firearm industry association, CAL-FFL represents members including firearm and ammunition retailers, training professionals, shooting ranges, licensed collectors, and others who participate in California's firearms ecosystem.
4. CAL-FFL serves its members and the public through direct and grassroots issue advocacy, regulatory input, legal efforts, and education.
5. The interpretation and enforcement of the Constitution, as well as the Defendants' orders and enforcement actions, directly impacts CAL-FFL's organizational interests, as well as the rights of CAL-FFL's members and supporters.
6. CAL-FFL brings this action on behalf of itself, its members, supporters who possess all the indicia of membership, and similarly situated members of the firearm licensee industry and the public. Plaintiffs Kaplan and City Arms East are members of CAL-FFL.
7. Since the Defendants began issuing and enforcing the orders and directives at issue in this case, I and other CAL-FFL representatives have spent time speaking to affected retailers, including some shut down by Defendants' orders and enforcement actions, evaluating damages caused by the

1 Defendants, and associated impacts to our industry, its members, and the
2 members of the public they serve.

3
4 8. Firearm and ammunition product manufacturers, retailers, importers,
5 distributors, and shooting ranges are essential businesses that provide essential
6 access to constitutionally protected fundamental, individual rights. If firearms
7 and ammunition could be purchased online like other constitutionally
8 protected artifacts, such as paper, pens, ink, and technology products that
9 facilitate speech, then individuals could simply purchase what they need and
10 have the items delivered to their doorsteps. But because of an onerous and
11 complicated federal, state, and local regulatory scheme, people in California
12 cannot exercise their Second Amendment right to keep and bear arms without
13 going in person to such essential businesses-at least once for ammunition, and
14 at least twice for firearms.

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19 9. In California, individuals are required to purchase and transfer firearms and
20 ammunition through state and federally licensed dealers, including CAL-
21 FFL's members, in face-to-face transactions or face serious criminal penalties.

22
23 10. Shuttering access to arms, the ammunition required to use those arms, and the
24 ranges and education facilities that individuals need to learn how to safely and
25 competently use arms, necessarily closes off the Constitutional right to learn
26 about, practice with, and keep and bear those arms.

- 1 11. By forcing duly licensed, essential businesses to close or eliminate key
2 services for the general public, government authorities are foreclosing the
3 only lawful means to buy, sell, and transfer firearms and ammunition available
4 to typical, law-abiding individuals in California. Such a prohibition on the
5 right to keep and bear arms is categorically unconstitutional.
6
7 12. In addition to violating constitutionally protected rights, Defendants are
8 causing severe economic harm to Essential Businesses in the firearms industry
9 and their workers engaged in the operation of firearm and ammunition product
10 manufacturing, retail, import and export, distribution, and shooting ranges.
11
12 13. If the Defendants' Orders and enforcement actions are not enjoined, additional
13 harm will result from the permanent closure of small businesses that provide
14 law-abiding adults with access to constitutionally protected products and
15 services.
16
17 14. CAL-FFL has and continues to expend and divert resources, and has been
18 adversely and directly harmed, by and because of Defendants' laws, policies,
19 orders, practices, customs, and enforcement actions.
20
21 15. Accordingly, and for reasons set for in Plaintiffs' application and motion, I
22 respectfully ask this Court to grant the application and/or motion for
23 preliminary injunction.
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1 I declare under penalty of perjury that the foregoing is true and correct. Executed
2 on April 9, 2020.

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6 Michael Baryla
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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JANICE ALTMAN, *et al.*,
Plaintiffs,

vs.

COUNTY OF SANTA CLARA,
CALIFORNIA, *et al.*,

Defendants.

Case No. 4:20-cv-02180-JST

**DECLARATION OF SCOTT
CHALMERS IN SUPPORT OF
PLAINTIFFS' APPLICATION FOR
TEMPORARY RESTRAINING ORDER
AND ISSUANCE OF PRELIMINARY
INJUNCTION**

DECLARATION OF SCOTT CHALMERS

I, Scott Chalmers, declare as follows:

1. I am an adult resident of the County of Contra Costa, California, and am a named plaintiff in the above matter. I have personal knowledge of the facts

1 stated herein, and if called as a witness, I could competently testify to these
2 facts.

3
4 2. This declaration is executed in support of Plaintiffs' Motion for Temporary
5 Restraining Order and Issuance of Preliminary Injunction.

6
7 3. I am not prohibited from possessing firearms or ammunition under federal and
8 state law.

9
10 4. In light of the developing situation involving the spread of COVID-19, I
11 became concerned about my ability to protect my girlfriend and myself. As
12 such, I desire to obtain a firearm and ammunition for self-defense and other
13 purposes.

14
15 5. Firearm and ammunition product manufacturers, retailers, importers,
16 distributors, and shooting ranges are "Essential Businesses" to me and my
17 family.

18
19 6. I possess a firearms safety certificate ("FSC") as required by the State of
20 California in order to purchase or acquire a firearm.

21
22 7. I have passed a California Department of Justice LiveScan background check.

23 8. I am in the California Department of Justice RapBack system.

24
25 9. Unlike individuals in other states, I cannot lawfully purchase ammunition
26 online and have it shipped directly to my home.

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28 10. In order for me to comply with California law, I can only acquire and take

1 possession of firearms and ammunition in a face to face transaction at a
2 licensed firearm and ammunition vendor. Defendants' Orders and actions
3 have resulted in firearm and ammunition stores being closed in the County of
4 Contra Costa, California.

6 11. I purchased a firearm from Solar Tactical. I passed my background check and
7 my 10-day waiting period was over on March 21, 2020. Because Solar
8 Tactical was forced to close due to Defendants mandatory closure of firearm
9 and ammunition retailers, I have not been able to pick up and acquire my
10 firearm.
11

13 12. On April 1, 2020, I was contacted by an employee of Solar Tactical and
14 informed that the last day I would be eligible to pick up my firearm would be
15 April 10, 2020. If I am not able to pick up my firearm by this date, Solar
16 Tactical will have to resubmit the Dealer Record of Sale (DROS) and restart
17 the background check, subjecting me to an additional waiting period and fees.
18

20 13. I want to exercise my right to acquire, keep, bear, and practice proficiency
21 training and shooting with arms – including firearms, ammunition, magazines,
22 and appurtenances – for lawful purposes including self-defense, and would do
23 so, but for the reasonable and imminent fear of arrest and criminal prosecution
24 under Defendants' laws, policies, orders, practices, customs, and enforcement.
25

27 14. Accordingly, and for reasons set for in Plaintiffs' application and motion, I
28

1 respectfully ask this Court to grant the application and/or motion for
2 preliminary injunction.

3 I declare under penalty of perjury that the foregoing is true and correct. Executed
4 on April 9, 2020.
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9 Scott Chalmers
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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JANICE ALTMAN, *et al.*,
Plaintiffs,

vs.

COUNTY OF SANTA CLARA,
CALIFORNIA, *et al.*,

Defendants.

Case No. 4:20-cv-02180-JST

**DECLARATION OF BRANDON
COMBS IN SUPPORT OF PLAINTIFFS'
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND
ISSUANCE OF PRELIMINARY
INJUNCTION**

DECLARATION OF BRANDON COMBS

I, Brandon Combs, declare as follows:

1. I am the President of Firearms Policy Coalition, Inc. ("FPC").

- 1 2. FPC is a non-profit organization incorporated under the laws of Delaware,
2 with a place of business in Sacramento, California.
- 3 3. FPC's mission is to defend and promote the People's rights—especially the
4 fundamental, individual Second Amendment right to keep and bear arms—
5 advance individual liberty, and restore freedom. To that end, FPC's purposes
6 are: (A) To protect and defend the Constitution of the United States and the
7 People's rights, privileges and immunities deeply rooted in this Nation's
8 history and tradition, especially the inalienable, fundamental, and individual
9 right to keep and bear arms; (B) To protect, defend, and advance the means
10 and methods by which the People of the United States may exercise those
11 rights, including, but not limited to, the acquisition, collection,
12 transportation, exhibition, carry, care, use, and disposition of arms for all
13 lawful purposes, including, but not limited to, self-defense, hunting, and
14 service in the appropriate militia for the common defense of the Republic
15 and the individual liberty of its citizens; (C) To foster and promote the
16 shooting sports and all lawful uses of arms; and, (D) To foster and promote
17 awareness of, and public engagement in, all of the above.
- 18 4. FPC serves its members and the public through legislative advocacy,
19 grassroots advocacy, litigation and legal efforts, research, education,
20 outreach, and other programs.
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- 1 5. FPC has members, including the individually named Plaintiffs and others,
2 and supporters, who have all the indicia of membership, in the State of
3 California, including in Defendants' jurisdictions.
4
- 5 6. FPC represents its members and supporters—who include gun owners,
6 individuals who wish to acquire firearms and ammunition, licensed California
7 firearm retailers, shooting ranges, trainers and educators, and others—and
8 brings this action on behalf of itself, its members, supporters who possess all
9 the indicia of membership, and similarly situated members of the public.
10
- 11 7. As detailed in the Plaintiffs' First Amended Complaint, Plaintiffs, Plaintiffs'
12 members and customers, and other similarly situated individuals would
13 exercise the fundamental human right to acquire, keep, bear, and practice
14 proficiency training and shooting with arms – including firearms, ammunition,
15 magazines, and appurtenances – for lawful purposes including self-defense,
16 and would do so, but for fear of liability and prosecution under Defendants'
17 laws, orders, policies, practices, customs, and enforcement actions.
18
- 19 8. Since the Defendants began issuing and enforcing the orders and directives at
20 issue in this case, I and other FPC representatives have spent time speaking to
21 affected retailers, including some shut down by Defendants' orders and
22 enforcement actions, evaluating damages caused by the Defendants and
23 associated impacts to the public and the retailers, ranges and others that
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1 provide access to constitutionally protected items, services, and conduct.

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3 9. Firearm and ammunition product manufacturers, retailers, importers,
4 distributors, and shooting ranges are essential businesses that provide essential
5 access to constitutionally protected fundamental, individual rights.

6
7 10. If firearms and ammunition could be purchased online like other
8 constitutionally protected artifacts, such as paper, pens, ink, and technology
9 products that facilitate speech, then individuals could simply purchase what
10 they need and have the items delivered to their doorsteps. But because of an
11 onerous and complicated federal, state, and local regulatory scheme, people
12 in California cannot exercise their Second Amendment right to keep and bear
13 arms without going in person to such essential businesses at least once for
14 ammunition, and at least twice for firearms.

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17 11. In California, individuals are required to purchase and transfer firearms and
18 ammunition through state and federally licensed dealers in face-to-face
19 transactions or face serious criminal penalties.

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22 12. Shuttering access to arms, the ammunition required to use those arms, and the
23 ranges and education facilities that individuals need to learn how to safely and
24 competently use arms for self-defense and all lawful purposes, necessarily
25 closes off the Constitutional right to learn about, practice with, and keep and
26 bear those arms.
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- 1 13. By forcing duly licensed, essential businesses to close or eliminate key
2 services for the general public, government authorities are foreclosing the only
3 lawful means to buy, sell, and transfer firearms and ammunition available to
4 typical, law-abiding individuals in California. Such a prohibition on the right
5 to keep and bear arms is categorically unconstitutional.
6
7 14. In addition to violating constitutionally protected rights, Defendants are
8 causing severe economic harm to essential businesses in the firearms industry
9 and their workers engaged in the operation of firearm and ammunition product
10 manufacturing, retail, import and export, distribution, and shooting ranges.
11
12 15. If the Defendants' Orders and enforcement actions are not enjoined, additional
13 harm will result from the permanent closure of small businesses that provide
14 law-abiding adults with access to constitutionally protected products and
15 services.
16
17 16. FPC has and continues to expend and divert resources, and has been and
18 continues to be adversely and directly harmed, because of Defendants' laws,
19 policies, orders, practices, customs, and enforcement actions.
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21 17. Accordingly, and for reasons set for in Plaintiffs' application and motion, I
22 respectfully ask this Court to grant the application and/or motion for
23 preliminary injunction.
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I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 9, 2020.



Brandon Combs

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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JANICE ALTMAN, *et al.*,
Plaintiffs,

vs.

COUNTY OF SANTA CLARA,
CALIFORNIA, *et al.*,

Defendants.

Case No. 4:20-cv-02180-JST

**DECLARATION OF DMITRIY
DANILEVSKY IN SUPPORT OF
PLAINTIFFS' APPLICATION FOR
TEMPORARY RESTRAINING ORDER
AND ISSUANCE OF PRELIMINARY
INJUNCTION**

DECLARATION OF DMITRIY DANILEVSKY

I, Dmitriy Danilevsky, declare as follows:

1. I am an adult resident of the County of Contra Costa, California, the co-owner and operator of Plaintiff City Arms LLC ("City Arms") in Pacifica, California, and am

1 personally named as a plaintiff in the above matter. I have personal knowledge of the
2 facts stated herein, and if called as a witness, I could competently testify to these facts.

3 2. This declaration is executed in support of Plaintiffs' Application for Temporary
4 Restraining Order and Issuance of Preliminary Injunction.

5 3. I am not prohibited from acquiring or possessing firearms and ammunition under federal
6 and state law.

7
8 4. Plaintiff City Arms and I are licensed to sell and transfer firearms and ammunition to
9 non-prohibited individuals who meet federal and state requirements for the purchase and
10 transfer of such items.

11 5. Plaintiff City Arms is a fully licensed firearms retailer that offer their customers excellent
12 selections of firearms, ammunition and other related accessories for self-defense,
13 recreational sport, and hunting.

14
15 6. Plaintiff City Arms and I are concerned about our own safety, the safety of our customers,
16 and the safety of the general public, especially in light of the developing situation
17 involving the spread of COVID-19 and the release of criminals and inmates.

18
19 7. In order for individuals to comply with California law, they may only acquire and take
20 possession of firearms and ammunition in a face to face transaction at a licensed firearm
21 and ammunition vendor. Firearm and ammunition product manufacturers, retailers,
22 importers, distributors, and shooting ranges are "Essential Businesses" to us and our
23 customers.

24
25 8. Defendants' Orders and actions have resulted in firearm and ammunition stores, like and
26 including me and Plaintiff City Arms, being shut down. Such closures damage me, Plaintiff
27 City Arms, other firearm and ammunition retailers, our customers, and law-abiding
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1 members of the public who wish to exercise their rights.

- 2 9. Plaintiff City Arms and I have ceased to conduct sales and transfers of firearms and
3 ammunition because of Defendants' laws, policies, orders, practices, customs, and
4 enforcement actions, and for fear of liability, prosecution, and loss of licenses under
5 Defendants' laws, orders, policies, practices, customs, and enforcement actions.
- 6 10. On March, 23, 2020, my business partner, Vladimir Chaban, was informed by the Pacifica
7 Police Department that City Arms could no longer conduct new sales or transfers of
8 firearms and ammunition because gun shops were "non-essential." He was told at that time
9 that City Arms LLC was permitted to remain open for the purpose of delivering firearms
10 that had already been purchased, but for no other purpose until April 6, 2020, at which
11 point City Arms LLC would be required to close its doors entirely.
- 12 11. On March 27, 2020, I called Captain Glasgow of the Pacifica Police Department to confirm
13 the April 6, 2020 shutdown date and to inquire whether we could get an extension to deliver
14 firearms to those who were allowed to pick up their firearms through April 20, 2020.
15 Captain Glasgow called me back later that day and stated that there would be no extension
16 beyond April 6th, and that we should be grateful that we were given the time we were
17 allowed to continue to operate.
- 18 12. Defendants' Orders and enforcement have violated fundamental constitutional rights and
19 caused other damages, including direct economic harm to myself and Plaintiff City Arms
20 as we are unable to conduct business for fear of liability, prosecution, and loss of licenses
21 under Defendants' laws, orders, policies, practices, customs, and enforcement actions.
- 22 13. Plaintiff City Arms and I would conduct training and education, perform Firearms Safety
23 Certificate ("FSC") testing for and issue FSC certificates to eligible persons, and sell and
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1 transfer arms – including firearms, ammunition, magazines, and appurtenances – at our
2 licenses premises but for the reasonable and imminent fear of criminal prosecution,
3 penalties, and the loss of our licenses under Defendants’ laws, policies, orders, practices,
4 customs, and enforcement thereof.

5 14. Plaintiff City Arms and I, as well as our customers and individuals who would be
6 customers, have been and continue to be adversely and directly harmed because of
7 Defendants’ laws, policies, orders, practices, customs, and enforcement actions.

8 15. As detailed in the Plaintiffs’ Complaint, Plaintiffs, Plaintiffs’ members and customers, and
9 other similarly situated individuals would exercise the fundamental human right to acquire,
10 keep, bear, and practice proficiency training and shooting with arms – including firearms,
11 ammunition, magazines, and appurtenances – for lawful purposes including self-defense,
12 and would do so, but for fear of liability and prosecution under Defendants’ laws, orders,
13 policies, practices, customs, and enforcement actions.

14 16. Accordingly, and for reasons set for in Plaintiffs’ application and motion, I
15 respectfully ask this Court to grant the application and/or motion for
16 preliminary injunction.

17 I declare under penalty of perjury that the foregoing is true and correct.

18 Executed on April 9, 2020.

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Dmitriy Danilevsky

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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JANICE ALTMAN, *et al.*,
Plaintiffs,

vs.

COUNTY OF SANTA CLARA,
CALIFORNIA, *et al.*,

Defendants.

Case No. 4:20-cv-02180-JST

**DECLARATION OF GREGORY DAVID
IN SUPPORT OF PLAINTIFFS'
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND
ISSUANCE OF PRELIMINARY
INJUNCTION**

DECLARATION OF GREGORY DAVID

I, Gregory David, declare as follows:

1. I am an adult resident of the County of Santa Clara, California, the owner and operator Plaintiff Cuckoo Collectibles LLC, d.b.a. Eddy's Shooting

1 Sports (“Eddy’s”) in Mountain View, California, and am personally named
2 as a plaintiff in the above matter. I have personal knowledge of the facts
3 stated herein, and if called as a witness, I could competently testify to these
4 facts.
5

6 2. This declaration is executed in support of Plaintiffs’ Application for
7 Temporary Restraining Order and Issuance of Preliminary Injunction.
8

9 3. I am not prohibited from acquiring or possessing firearms and ammunition
10 under federal and state law.
11

12 4. Plaintiff Eddy’s and I are licensed to sell and transfer firearms and
13 ammunition to non-prohibited individuals who meet federal and state
14 requirements for the purchase and transfer of such items.
15

16 5. Plaintiff Eddy’s carries an enormous selection of firearms of all kinds. It
17 sells most major brands and can source special and unique firearms upon
18 request. Eddy’s selection is extremely diverse, covering all aspects of
19 shooting, including home defense, hunting, target shooting, and collecting.
20

21 6. Plaintiff Eddy’s and I are concerned about our own safety, the safety of our
22 customers, and the safety of the general public, especially in light of the
23 developing situation involving the spread of COVID-19 and the release of
24 criminals and inmates.
25
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27 7. In order for individuals to comply with California law, they may only acquire
28

1 and take possession of firearms and ammunition in a face to face transaction
2 at a licensed firearm and ammunition vendor. Firearm and ammunition
3 product manufacturers, retailers, importers, distributors, and shooting ranges
4 are “Essential Businesses” to us and our customers.
5

6 8. Defendants’ Orders and actions have resulted in firearm and ammunition
7 stores, like and including me and Plaintiff Eddy’s, being required to shut
8 down. Such closures damage me, Plaintiff Eddy’s, other firearm and
9 ammunition retailers, our customers, and law-abiding members of the public
10 who wish to exercise their rights.
11

12 9. Plaintiff Eddy’s and I have been instructed to cease to conduct sales and
13 transfers of firearms and ammunition because of Defendants’ laws, policies,
14 orders, practices, customs, and enforcement actions, and for fear of liability,
15 prosecution, and loss of licenses under Defendants’ laws, orders, policies,
16 practices, customs, and enforcement actions.
17

18 10. On March 30, 2020, I received a letter from City of Mountain View Chief of
19 Police Max Bosel, in which he stated that I may not conduct business
20 operations, as the County has determined my business is non-essential.
21

22 11. The letter also stated that “[a]ny violation of the Order may result in any or all
23 enforcement action as provided by law.”
24

25 12. Defendants’ Orders and enforcement have violated fundamental constitutional
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1 rights and caused other damages, including direct economic harm to myself
2 and Plaintiff Eddy's as we are unable to conduct business without being
3 subject to liability, prosecution, and loss of licenses under Defendants' laws,
4 orders, policies, practices, customs, and enforcement actions.
5

6
7 13. Plaintiff Eddy's and I seek to conduct training and education, perform
8 Firearms Safety Certificate ("FSC") testing for and issue FSC certificates to
9 eligible persons, and sell and transfer arms – including firearms,
10 ammunition, magazines, and appurtenances – at our licenses premises
11 without the reasonable and imminent fear of criminal prosecution, penalties,
12 and the loss of our licenses under Defendants' laws, policies, orders,
13 practices, customs, and enforcement thereof.
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15

16
17 14. Plaintiff Eddy's and I, as well as our customers and individuals who would be
18 customers, have been and continue to be adversely and directly harmed
19 because of Defendants' laws, policies, orders, practices, customs, and
20 enforcement actions.
21


22 15. As detailed in the Plaintiffs' Complaint, Plaintiffs, Plaintiffs' members and
23 customers, and other similarly situated individuals would exercise the
24 fundamental human right to acquire, keep, bear, and practice proficiency
25 training and shooting with arms – including firearms, ammunition, magazines,
26 and appurtenances – for lawful purposes including self-defense, and would do
27
28

1 so, but for fear of liability and prosecution under Defendants' laws, orders,
2 policies, practices, customs, and enforcement actions.

3
4 16. Accordingly, and for reasons set for in Plaintiffs' application and motion, I
5 respectfully ask this Court to grant the application and/or motion for
6 preliminary injunction.
7

8 I declare under penalty of perjury that the foregoing is true and correct.

9 Executed on April 9, 2020.

10
11 
12 _____
13 Gregory David

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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JANICE ALTMAN, *et al.*,
Plaintiffs,

vs.

COUNTY OF SANTA CLARA,
CALIFORNIA, *et al.*,

Defendants.

Case No. 4:20-cv-02180-JST

**DECLARATION OF RYAN
GOODRICH IN SUPPORT OF
PLAINTIFFS' APPLICATION FOR
TEMPORARY RESTRAINING ORDER
AND ISSUANCE OF PRELIMINARY
INJUNCTION**

DECLARATION OF RYAN GOODRICH

I, Ryan Goodrich, declare as follows:

1. I am an adult resident of the County of Contra Costa, California, and am a named plaintiff in the above matter. I have personal knowledge of the facts

1 stated herein, and if called as a witness, I could competently testify to these
2 facts.

3
4 2. This declaration is executed in support of Plaintiffs' Motion for Temporary
5 Restraining Order and Issuance of Preliminary Injunction.

6
7 3. I am not prohibited from possessing firearms or ammunition under federal and
8 state law.

9
10 4. In light of the developing situation involving the spread of COVID-19, I
11 became concerned about my ability to protect myself and my family. As such,
12 I desire to obtain ammunition for self-defense and other purposes.

13
14 5. Additionally, I am employed as an armored truck driver. This employment
15 status makes me an essential worker pursuant to the Contra Costa County Stay
16 at Home Order. I also require firearms and ammunition for the execution of
17 this employment. I cannot acquire the ammunition I need for my job because
18 all of the gun shops in Contra Costa County are prohibited from making any
19 ammunition sales under the current Order.
20

21
22 6. I possess a firearms safety certificate ("FSC") as required by the State of
23 California in order to purchase or acquire a firearm.

24
25 7. Unlike individuals in other states, I cannot lawfully purchase ammunition
26 online and have it shipped directly to my home.

27
28 8. Unlike other constitutionally protected products that can be purchased online

1 and shipped directly to me, under federal and state law, I cannot purchase a
2 firearm online and have it shipped to my home.

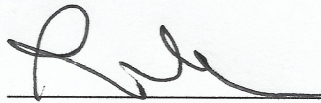
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4 9. In order for me to comply with federal and State law, I can only acquire and
5 take possession of firearms in a face to face transaction at a duly licensed
6 firearm retailer.

7
8 10. In order for me to comply with California law, I can only acquire and take
9 possession of ammunition in a face to face transaction at a licensed firearm
10 and ammunition vendor. Defendants' Orders and actions have resulted in
11 firearm and ammunition stores being closed in the County of Contra Costa,
12 California.

13
14 11. I want to exercise my right to acquire, keep, bear, and practice proficiency
15 training and shooting with arms – including firearms, ammunition, magazines,
16 and appurtenances – for lawful purposes including self-defense, and would do
17 so, but for the reasonable and imminent fear of arrest and criminal prosecution
18 under Defendants' laws, policies, orders, practices, customs, and enforcement.

19
20 12. Accordingly, and for reasons set for in Plaintiffs' application and motion, I
21 respectfully ask this Court to grant the application and/or motion for
22 preliminary injunction.

23
24 I declare under penalty of perjury that the foregoing is true and correct. Executed
25 on April 9, 2020.



Ryan Goodrich

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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JANICE ALTMAN, *et al.*,
Plaintiffs,

vs.

COUNTY OF SANTA CLARA,
CALIFORNIA, *et al.*,

Defendants.

Case No. 4:20-cv-02180-JST

**DECLARATION OF ALAN GOTTLIEB
IN SUPPORT OF PLAINTIFFS'
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND
ISSUANCE OF PRELIMINARY
INJUNCTION**

DECLARATION OF ALAN GOTTLIEB

I, Alan Gottlieb, declare as follows:

1. I am the Executive Vice President of the Second Amendment Foundation, Inc. ("SAF").

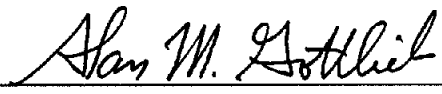
2. SAF is a non-profit corporation organized under the laws of the State of Washington with its principal place of business in Bellevue, Washington.
3. SAF has over 650,000 members and supporters nationwide, including in the Counties of Santa Clara, Contra Costa, Alameda, and San Mateo, California.
4. The purposes of SAF include promoting the exercise of the right to keep and bear arms and legal action focusing on the constitutional right to privately own and possess firearms.
5. SAF also promotes research and education on the consequences of abridging the right to keep and bear arms and on the historical grounding and importance of the right to keep and bear arms as one of the core civil rights of United States citizens.
6. As detailed in the Plaintiffs' First Amended Complaint, Plaintiffs, Plaintiffs' members and customers, and other similarly situated individuals would exercise the fundamental human right to acquire, keep, bear, and practice proficiency training and shooting with arms – including firearms, ammunition, magazines, and appurtenances – for lawful purposes including self-defense, and would do so, but for fear of liability and prosecution under Defendants' laws, orders, policies, practices, customs, and enforcement actions.
7. SAF has and continues to expend and divert resources, and has been and continues to be adversely and directly harmed, because of Defendants' laws,

1 policies, orders, practices, customs, and enforcement actions.

2
3 8. Accordingly, and for reasons set for in Plaintiffs' application and motion, I
4 respectfully ask this Court to grant the application and/or motion for
5 preliminary injunction.
6

7
8
9 I declare under penalty of perjury that the foregoing is true and correct.
10

11 Executed on April 9, 2020.

12 
13 Alan Gottlieb

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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JANICE ALTMAN, *et al.*,
Plaintiffs,

vs.

COUNTY OF SANTA CLARA,
CALIFORNIA, *et al.*,

Defendants.

Case No. 4:20-cv-02180-JST

**DECLARATION OF GENE HOFFMAN
IN SUPPORT OF PLAINTIFFS'
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND
ISSUANCE OF PRELIMINARY
INJUNCTION**

DECLARATION OF GENE HOFFMAN

I, Gene Hoffman, declare as follows:

1. I am the Chairman of Plaintiff California Gun Rights Foundation (“CGF”) and reside in the County of San Mateo, California.

2. CGF is a non-profit organization incorporated under the laws of California, with a place of business in Sacramento, California.
3. CGF’s purposes are to protect, defend, and advance rights and liberties, including, without limitation, Californians’ individual right to keep and bear arms; those codified and uncoded rights protected under the Constitution of the United States and the Constitution of the State of California; and all other charitable and educational activities as permissible under law.
4. CGF serves its members and the public through research, education, legal action, outreach, and other programs.
5. CGF has members and supporters, who have all the indicia of membership, in the State of California, including in the counties of San Mateo, Alameda, Santa Clara, and Contra Costa.
6. CGF represents its members and supporters—who include gun owners, individuals who wish to acquire firearms and ammunition, licensed California firearm retailers, shooting ranges, trainers and educators, and others—and brings this action on behalf of itself, its members, supporters who possess all the indicia of membership, and similarly situated members of the public.
7. As detailed in the Plaintiffs’ First Amended Complaint, Plaintiffs, Plaintiffs’ members and customers, and other similarly situated individuals would exercise the fundamental human right to acquire, keep, bear, and practice


1 proficiency training and shooting with arms – including firearms, ammunition,
2 magazines, and appurtenances – for lawful purposes including self-defense,
3 and would do so, but for fear of liability and prosecution under Defendants’
4 laws, orders, policies, practices, customs, and enforcement actions.
5

6 8. CGF has and continues to expend and divert resources, and has been and
7 continues to be adversely and directly harmed, because of Defendants’ laws,
8 policies, orders, practices, customs, and enforcement actions.
9

10 9. Accordingly, and for reasons set for in Plaintiffs’ application and motion, I
11 respectfully ask this Court to grant the application and/or motion for
12 preliminary injunction.
13
14

15 I declare under penalty of perjury that the foregoing is true and correct.

16 Executed on April 9, 2020.

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Gene Hoffman

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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JANICE ALTMAN, *et al.*,
Plaintiffs,

vs.

COUNTY OF SANTA CLARA,
CALIFORNIA, *et al.*,

Defendants.

Case No. 4:20-cv-02180-JST

**DECLARATION OF ROMAN KAPLAN
IN SUPPORT OF PLAINTIFFS'
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND
ISSUANCE OF PRELIMINARY
INJUNCTION**

DECLARATION OF ROMAN KAPLAN

I, Roman Kaplan, declare as follows:

1. I am an adult resident of the County of Contra Costa, California, the co-owner and operator of Plaintiff City Arms East LLC ("City Arms East") in

1 Pleasant Hill, California, and am personally named as a plaintiff in the above
2 matter. I have personal knowledge of the facts stated herein, and if called as
3 a witness, I could competently testify to these facts.
4

- 5 2. This declaration is executed in support of Plaintiffs' Application for
6 Temporary Restraining Order and Issuance of Preliminary Injunction.
7
- 8 3. I am not prohibited from acquiring or possessing firearms and ammunition
9 under federal and state law.
10
- 11 4. Plaintiff City Arms East and I are licensed to sell and transfer firearms and
12 ammunition to non-prohibited individuals who meet federal and state
13 requirements for the purchase and transfer of such items.
14
- 15 5. Plaintiff City Arms East is a fully licensed firearms retailer that offer their
16 customers excellent selections of firearms, ammunition and other related
17 accessories for self-defense, recreational sport, and hunting.
18
- 19 6. Plaintiff City Arms East and I are concerned about our own safety, the safety
20 of our customers, and the safety of the general public, especially in light of
21 the developing situation involving the spread of COVID-19 and the release
22 of criminals and inmates.
23
- 24 7. In order for individuals to comply with California law, they may only acquire
25 and take possession of firearms and ammunition in a face to face transaction
26 at a licensed firearm and ammunition vendor. Firearm and ammunition
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1 product manufacturers, retailers, importers, distributors, and shooting ranges
2 are “Essential Businesses” to us and our customers.

3
4 8. Defendants’ Orders and actions have resulted in firearm and ammunition
5 stores, like and including me and Plaintiff City Arms East, being shut down.
6 Such closures damage me, Plaintiff City Arms East, other firearm and
7 ammunition retailers, our customers, and law-abiding members of the public
8 who wish to exercise their rights.

9
10 9. Plaintiff City Arms East and I have ceased to conduct sales and transfers of
11 firearms and ammunition because of Defendants’ laws, policies, orders,
12 practices, customs, and enforcement actions, and for fear of liability,
13 prosecution, and loss of licenses under Defendants’ laws, orders, policies,
14 practices, customs, and enforcement actions.

15
16
17 10. On March, 25, 2020, I was informed by the Pleasant Hill Police Department
18 that City Arms East could no longer conduct new sales or transfers of firearms
19 and ammunition.

20
21 11. On March 28, 2020, I sent the new CISA guidelines that outline firearms
22 retailers and employees are essential critical infrastructure to the Pleasant Hill
23 Policy Department via email. I was informed that the prior conditions of
24 operation (no new sales or transfers of firearms and ammunition) would
25 continue to apply until the city attorney and/or county officials took some form
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1 of action.

2 12. On April 1, 2020, I was informed by the Pleasant Hill Police Department that
3 a new order was issued by the County Health Officer on March 31, 2020 that
4 went into effect at midnight via email. I was advised that the new order did
5 not include firearms retailers as “essential businesses.”
6

7
8 13. Attached hereto as **Exhibit 1** is a true and correct copy of the April 1, 2020,
9 email received from Ronald Priebe of the Pleasant Hill Police Department.

10 14. Attached hereto as **Exhibit 2** is a true and correct copy of the March 31, 2020
11 Contra Costa shelter in place order highlighted and sent by Ronald Priebe of
12 the Pleasant Hill Police Department.
13

14
15 15. Defendants’ Orders and enforcement have violated fundamental constitutional
16 rights and caused other damages, including direct economic harm to myself
17 and Plaintiff City Arms East as we are unable to conduct business for fear of
18 liability, prosecution, and loss of licenses under Defendants’ laws, orders,
19 policies, practices, customs, and enforcement actions.
20

21
22 16. Plaintiff City Arms East and I would conduct training and education,
23 perform Firearms Safety Certificate (“FSC”) testing for and issue FSC
24 certificates to eligible persons, and sell and transfer arms – including
25 firearms, ammunition, magazines, and appurtenances – at our licenses
26 premises but for the reasonable and imminent fear of criminal prosecution,
27
28

1 penalties, and the loss of our licenses under Defendants' laws, policies,
2 orders, practices, customs, and enforcement thereof.


3
4 17. Plaintiff City Arms East and I, as well as our customers and individuals who
5 would be customers, have been and continue to be adversely and directly
6 harmed because of Defendants' laws, policies, orders, practices, customs, and
7 enforcement actions.
8

9 18. As detailed in the Plaintiffs' Complaint, Plaintiffs, Plaintiffs' members and
10 customers, and other similarly situated individuals would exercise the
11 fundamental human right to acquire, keep, bear, and practice proficiency
12 training and shooting with arms – including firearms, ammunition, magazines,
13 and appurtenances – for lawful purposes including self-defense, and would do
14 so, but for fear of liability and prosecution under Defendants' laws, orders,
15 policies, practices, customs, and enforcement actions.
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19 19. Accordingly, and for reasons set for in Plaintiffs' application and motion, I
20 respectfully ask this Court to grant the application and/or motion for
21 preliminary injunction.
22

23 I declare under penalty of perjury that the foregoing is true and correct.
24

25 Executed on April 9, 2020.
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Roman Kaplan

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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JANICE ALTMAN, *et al.*,
Plaintiffs,

vs.

COUNTY OF SANTA CLARA,
CALIFORNIA, *et al.*,

Defendants.

Case No. 4:20-cv-02180-JST

**DECLARATION OF JOSH SAVANI IN
SUPPORT OF PLAINTIFFS'
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND
ISSUANCE OF PRELIMINARY
INJUNCTION**

DECLARATION OF JOSH SAVANI

I, Josh Savani, declare as follows:

1. I am the Director of Research and Information of the National Rifle

- Association of America, Inc. (“NRA”).
2. NRA is a 501(c)(4) nonprofit corporation organized under the laws of the State of New York with its principal place of business in Fairfax, Virginia.
 3. NRA has over 5 million members and supporters nationwide, including in the counties of Santa Clara, Alameda, San Mateo, and Contra Costa, and across the State of California. These members include Plaintiff Altman.
 4. In Accordance with Article II of the NRA’s bylaws, the NRA’s purposes and objectives include “To protect and defend the Constitution of the United States, especially with reference to the God-given inalienable right of the individual American citizen guaranteed by such Constitution to acquire, possess ... transfer ownership of, and enjoy the right to use, keep and bear arms, in order that the people may exercise their individual rights of ... defense of family, person, and property.”
 5. As detailed in the Plaintiffs’ First Amended Complaint, Plaintiffs, Plaintiffs’ members and customers, and other similarly situated individuals would exercise the fundamental human right to acquire, keep, bear, and practice proficiency training and shooting with arms – including firearms, ammunition, magazines, and appurtenances – for lawful purposes including self-defense, and would do so, but for fear of liability and prosecution under Defendants’ laws, orders, policies, practices, customs, and enforcement actions.
 6. NRA has and continues to expend and divert resources, and has been and

continues to be adversely and directly harmed, because of Defendants' laws, policies, orders, practices, customs, and enforcement actions.

7. Accordingly, and for reasons set forth in Plaintiffs' application and motion, I respectfully ask this Court to grant the application and/or motion for preliminary injunction.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 9, 2020.

Josh Savani

A handwritten signature in black ink, appearing to be 'Josh Savani', is written over a horizontal line. The signature is stylized with large loops and a long horizontal stroke at the end.

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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JANICE ALTMAN, *et al.*,
Plaintiffs,

vs.

COUNTY OF SANTA CLARA,
CALIFORNIA, *et al.*,

Defendants.

Case No. 4:20-cv-02180-JST

**DECLARATION OF ALBERT LEE
SWANN IN SUPPORT OF PLAINTIFFS'
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND
ISSUANCE OF PRELIMINARY
INJUNCTION**

DECLARATION OF ALBERT LEE SWANN

I, Albert Lee Swann, declare as follows:

1. I am an adult resident of the County of Alameda, California, and am a named plaintiff in the above matter. I have personal knowledge of the facts stated

1 herein, and if called as a witness, I could competently testify to these facts.

2 2. This declaration is executed in support of Plaintiffs’ Motion for Temporary
3 Restraining Order and Issuance of Preliminary Injunction.

4
5 3. I am not prohibited from possessing firearms or ammunition under federal and
6 state law.

7
8 4. In light of the developing situation involving the spread of COVID-19, I
9 became concerned about my ability to protect myself and my family. As such,
10 I desire to obtain ammunition for self-defense and other purposes.

11
12 5. I possess a firearms safety certificate (“FSC”) as required by the State of
13 California in order to purchase or acquire a firearm.

14
15 6. Unlike individuals in other states, I cannot lawfully purchase ammunition
16 online and have it shipped directly to my home.

17 7. Unlike other constitutionally protected products that can be purchased online
18 and shipped directly to me, under federal and state law, I cannot purchase a
19 firearm online and have it shipped to my home.

20
21 8. In order for me to comply with federal and State law, I can only acquire and
22 take possession of firearms in a face to face transaction at a duly licensed
23 firearm retailer.

24
25 9. In order for me to comply with California law, I can only acquire and take
26 possession of ammunition in a face to face transaction at a licensed firearm
27 possession of ammunition in a face to face transaction at a licensed firearm
28

1 and ammunition vendor. Defendants' Orders and actions have resulted in
2 firearm and ammunition stores being closed in the County of Alameda,
3 California.
4

5 10. I want to exercise my right to acquire, keep, bear, and practice proficiency
6 training and shooting with arms – including firearms, ammunition, magazines,
7 and appurtenances – for lawful purposes including self-defense, and would do
8 so, but for the reasonable and imminent fear of arrest and criminal prosecution
9 under Defendants' laws, policies, orders, practices, customs, and enforcement.
10
11

12 11. Accordingly, and for reasons set for in Plaintiffs' application and motion, I
13 respectfully ask this Court to grant the application and/or motion for
14 preliminary injunction.
15

16 I declare under penalty of perjury that the foregoing is true and correct. Executed
17 on April 9, 2020.
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21 _____
Albert Lee Swann
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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JANICE ALTMAN, *et al.*,
Plaintiffs,

vs.

COUNTY OF SANTA CLARA,
CALIFORNIA, *et al.*,

Defendants.

Case No. 4:20-cv-02180-JST

**DECLARATION OF YAN TRAYTEL IN
SUPPORT OF PLAINTIFFS'
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND
ISSUANCE OF PRELIMINARY
INJUNCTION**

DECLARATION OF YAN TRAYTEL

I, Yan Traytel, declare as follows:

1. I am an adult resident of the County of Contra Costa, California, the co-owner and operator Plaintiff City Arms East LLC ("City Arms East") in

1 Pleasant Hill, California, and am personally named as a plaintiff in the above
2 matter. I have personal knowledge of the facts stated herein, and if called as
3 a witness, I could competently testify to these facts.
4

- 5 2. This declaration is executed in support of Plaintiffs' Application for
6 Temporary Restraining Order and Issuance of Preliminary Injunction.
7
- 8 3. I am not prohibited from acquiring or possessing firearms and ammunition
9 under federal and state law.
10
- 11 4. Plaintiff City Arms East and I are licensed to sell and transfer firearms and
12 ammunition to non-prohibited individuals who meet federal and state
13 requirements for the purchase and transfer of such items.
14
- 15 5. Plaintiff City Arms East is a fully licensed firearms retailer that offer their
16 customers excellent selections of firearms, ammunition and other related
17 accessories for self-defense, recreational sport, and hunting.
18
- 19 6. Plaintiff City Arms East and I are concerned about our own safety, the safety
20 of our customers, and the safety of the general public, especially in light of
21 the developing situation involving the spread of COVID-19 and the release
22 of criminals and inmates.
23
- 24 7. In order for individuals to comply with California law, they may only acquire
25 and take possession of firearms and ammunition in a face to face transaction
26 at a licensed firearm and ammunition vendor. Firearm and ammunition
27
28

1 product manufacturers, retailers, importers, distributors, and shooting ranges
2 are “Essential Businesses” to us and our customers.

3
4 8. Defendants’ Orders and actions have resulted in firearm and ammunition
5 stores, like and including me and Plaintiff City Arms East, being shut down.
6 Such closures damage me, Plaintiff City Arms East, other firearm and
7 ammunition retailers, our customers, and law-abiding members of the public
8 who wish to exercise their rights.

9
10 9. Plaintiff City Arms East and I have ceased to conduct sales and transfers of
11 firearms and ammunition because of Defendants’ laws, policies, orders,
12 practices, customs, and enforcement actions, and for fear of liability,
13 prosecution, and loss of licenses under Defendants’ laws, orders, policies,
14 practices, customs, and enforcement actions.

15
16
17 10. On March, 25, 2020, my business partner, Roman Kaplan was informed by
18 the Pleasant Hill Police Department that City Arms East could no longer
19 conduct new sales or transfers of firearms and ammunition.

20
21
22 11. On March 28, 2020, Roman sent the new CISA guidelines that outline
23 firearms retailers and employees are essential critical infrastructure to the
24 Pleasant Hill Policy Department via email. He was informed that the prior
25 conditions of operation (no new sales or transfers of firearms and ammunition)
26 would continue to apply until the city attorney and/or county officials took
27
28

1 some form of action.

2 12. On April 1, 2020, Roman was informed by the Pleasant Hill Police
3 Department that a new order was issued by the County Health Officer on
4 March 31, 2020 that went into effect at midnight via email. He was advised
5 that the new order did not include firearms retailers as “essential businesses”.

6
7 13. Defendants’ Orders and enforcement have violated fundamental constitutional
8 rights and caused other damages, including direct economic harm to myself
9 and Plaintiff City Arms East as we are unable to conduct business for fear of
10 liability, prosecution, and loss of licenses under Defendants’ laws, orders,
11 policies, practices, customs, and enforcement actions.

12
13
14 14. Plaintiff City Arms East and I would conduct training and education,
15 perform Firearms Safety Certificate (“FSC”) testing for and issue FSC
16 certificates to eligible persons, and sell and transfer arms – including
17 firearms, ammunition, magazines, and appurtenances – at our licenses
18 premises but for the reasonable and imminent fear of criminal prosecution,
19 penalties, and the loss of our licenses under Defendants’ laws, policies,
20 orders, practices, customs, and enforcement thereof.

21
22 15. Plaintiff City Arms East and I, as well as our customers and individuals who
23 would be customers, have been and continue to be adversely and directly
24 harmed because of Defendants’ laws, policies, orders, practices, customs, and
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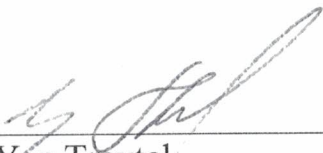
enforcement actions.

16. As detailed in the Plaintiffs' Complaint, Plaintiffs, Plaintiffs' members and customers, and other similarly situated individuals would exercise the fundamental human right to acquire, keep, bear, and practice proficiency training and shooting with arms – including firearms, ammunition, magazines, and appurtenances – for lawful purposes including self-defense, and would do so, but for fear of liability and prosecution under Defendants' laws, orders, policies, practices, customs, and enforcement actions.

17. Accordingly, and for reasons set for in Plaintiffs' application and motion, I respectfully ask this Court to grant the application and/or motion for preliminary injunction.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 9, 2020.



Yan Traytel

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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JANICE ALTMAN, an individual, et al.

Plaintiffs,

vs.

COUNTY OF SANTA CLARA,
CALIFORNIA, et al.

Defendants.

Case No. 4:20-cv-02180-JST

**[PROPOSED] TEMPORARY RESTRAINING
ORDER, AND ISSUANCE OF ORDER TO SHOW
CAUSE RE PRELIMINARY INJUNCTION**

**[PROPOSED] ORDER SETTING HEARING AS
PLAINTIFFS' MOTION FOR PRELIMINARY
INJUNCTION**

Date: TBA
Time: TBA
Location: TBA
Judge: Hon. Jon S. Tigar

First Amended Complaint Filed Apr. 10, 2020

**TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION**

The Court has considered the application of Plaintiffs Janice Altman, Ryan Goodrich, Albert Lee Swann, Roman Kaplan, Yan Traytel, Dmitri Danilevsky, Greg David, Scott Chalmers, City Arms East LLC, City Arms LLC, Cuckoo Collectibles LLC d.b.a. Eddy's Shooting Sports, Second Amendment Foundation, California Gun Rights Foundation, National Rifle Association of America, California Association of Federal Firearms Licensees, Inc., and Firearms Policy Coalition, Inc. ("Plaintiffs"), for the issuance of a Temporary Restraining Order (TRO) and Order to Show Cause (OSC) why a Preliminary Injunction Should Not Issue, filed on April 3, 2020 ("Application"). Plaintiffs' Application was made pursuant to Fed. Rule of Civ. Pro. 65, and Northern District Civ. Local Rule 65-1. [Defendants have opposed/stated their intention to oppose the Application]. The Court has considered all papers submitted in support of [and in opposition to] the Plaintiffs' Application, and good cause appearing, hereby ORDERS as follows:

Plaintiffs' Application for the issuance of a Temporary Restraining Order is hereby GRANTED. Defendants County of Santa Clara, Laurie Smith (sued in her Capacity as Sheriff of the County of Santa Clara), Jeffrey Rosen (sued in his official capacity as Santa Clara County District Attorney), Sara Cody (sued in her official capacity as Santa Clara County Health Officer), City of San Jose, California, Sam Liccardo (sued in his official capacity as Mayor of San Jose), Edgardo Garcia (sued in his official capacity as Chief of Police for the City of San Jose), City of Mountain View, California, Max Bosel (sued in his official capacity as the Chief of Police for the City of Mountain View), County of Alameda, California, Gregory Ahern (sued in his capacity as Sheriff of the County of Alameda), Erica Pan (sued in her capacity as Health Officer of the County of Alameda), County of San Mateo, California, Carlos Bolanos (sued in his

1 capacity as Sheriff of the County of San Mateo), Scott Morrow (sued in his capacity as San
2 Mateo County Health Officer), City of Pacifica, California, Dan Steidle (sued in his official
3 capacity as the Chief of Police for the City of Pacifica), County of Contra Costa, California,
4 David Livingston (sued in his capacity as Sheriff of the County of Contra Costa), Chris Farnitano
5 (sued in his capacity as Health Officer of Contra Costa County), City of Pleasant Hill, California,
6 and Bryan Hill (sued in his official capacity as Chief of Police for the City of Pleasant Hill)
7 (“Defendants”), and each of their respective employees, officers, agents, representatives, and
8 those acting in concert or participation with them, are hereby RESTRAINED and temporarily
9 enjoined from forcing or compelling the closure of retail firearm and ammunition businesses on
10 the grounds they are “non-essential businesses” under their “ORDER OF THE HEALTH OFFICER OF
11 THE COUNTY OF SANTA CLARA DIRECTING ALL INDIVIDUALS LIVING IN THE COUNTY TO SHELTER
12 AT THEIR PLACE OF RESIDENCE,” etc., issued on March 16, 2020 and as revised on March 31,
13 2020 (“Santa Clara County Orders”); the “ORDER OF THE HEALTH OFFICER OF THE COUNTY OF
14 ALAMEDA DIRECTING ALL INDIVIDUALS LIVING IN THE COUNTY TO SHELTER AT THEIR PLACE OF
15 RESIDENCE,” etc., issued on March 16, 2020 and as revised on March 31, 2020 (“Alameda
16 County Orders”); the ORDER OF THE HEALTH OFFICER OF THE COUNTY OF SAN MATEO
17 DIRECTING ALL INDIVIDUALS LIVING IN THE COUNTY TO SHELTER AT THEIR PLACE OF
18 RESIDENCE,” etc., issued March 16, 2020 and as revised on March 31, 2020 (“San Mateo County
19 Orders”); the “ORDER OF THE HEALTH OFFICER OF THE COUNTY OF CONTRA COSTA DIRECTING
20 ALL INDIVIDUALS LIVING IN THE COUNTY TO SHELTER AT THEIR PLACE OF RESIDENCE,” etc.,
21 issued on March 16, 2020 and as revised on March 31, 2020 (“Contra Costa County Orders”);
22 and the orders, policies, practices and customs of the Santa Clara County Sheriff’s Department,
23 the Santa Clara County District Attorney’s Office, the San Jose Police Department, the Mountain
24 View Police Department, the Alameda County Sheriff’s Department, the San Mateo County

1 Sheriff's Department, Pacifica Police Department, the Contra Costa County Sheriff's
2 Department, and the Pleasant Hill Police Department.

3 The Court finds that Plaintiffs have demonstrated a likelihood of success on the merits, a
4 likelihood of irreparable harm absent relief, that the balance of equities favor the issuance of a
5 TRO, and that the temporary injunction promotes the public interest in the constitutional
6 questions presented by the Application.

7
8 It is further ORDERED, pursuant to Northern District Civ. L.R. 65-1(c), this Court shall
9 fix a hearing date on plaintiffs' Application, and issues this ORDER TO SHOW CAUSE why a
10 Preliminary Injunction Should Not Issue to provide Plaintiffs with preliminary injunctive relief,
11 pending the resolution of the merits of their claims, that would enjoin Defendants and their
12 respective agents, officers, employees, and representatives, and those acting in concert or
13 participation with them, from implementing or enforcing any order, mandate, policy,
14 proclamation, rule, or regulation related to the Defendants' orders, policies, practices, and
15 customs, to the extent that such orders, policies and practices would force or compel the closure
16 of retail firearm and ammunition businesses on the grounds they are "non-essential businesses"
17 during the COVID-19 pandemic.

18
19 The parties are hereby ORDERED to appear on _____, 2020, at ____
20 a.m./p.m. in Courtroom 6 of this Court, at 1301 Clay Street, Oakland, California, Hon. Jon S.
21 Tigar presiding, or to appear remotely as the current circumstances may require, for hearing on
22 the foregoing Order to Show Cause. Defendants' opposition, if any, to the Order to Show Cause
23 shall be filed no later than 5:00 p.m. on _____, 2020, and Plaintiffs' reply
24 memorandum, if any, shall be filed no later than 5:00 p.m. on _____, 2020.

25
26 Plaintiffs shall not be required to post a bond.

27
28 SO ORDERED.

1 Dated: _____

Hon. Jon S. Tigar
UNITED STATES DISTRICT JUDGE

2
3
4 **ALTERNATIVE ORDER SCHEDULING HEARING AS PLAINTIFFS'**
5 **MOTION FOR PRELIMINARY INJUNCTION**

6 It hereby ORDERED that the Plaintiffs' Application shall be deemed to be a motion for
7 Preliminary Injunction, pursuant to FRCP 65, and Northern District Civ. L.R. 65.

8 The parties are hereby ORDERED to appear on _____, 2020, at ____
9 a.m./p.m. in Courtroom 6 of this Court, at 1301 Clay Street, Oakland, California, Hon. Jon S.
10 Tigar presiding, or to appear remotely as the current circumstances may require, for hearing on
11 the foregoing Order to Show Cause. Defendants' opposition, if any, to the Order to Show Cause
12 shall be filed no later than 5:00 p.m. on _____, 2020, and Plaintiffs' reply
13 memorandum, if any, shall be filed no later than 5:00 p.m. on _____, 2020.

14
15 SO ORDERED.

16 Dated: _____

Hon. Jon S. Tigar
UNITED STATES DISTRICT JUDGE