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COUNTY OF SANTA CLARA, LAURIE SMITH,
7 JEFFREY ROSEN, and SARA CODY

8 UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
9 (Oakland Division)

10
11 JANICE ALTMAN, et al.,

12 Plaintiffs,

13 v.

14 COUNTY OF SANTA CLARA, et al.,

15 Defendants.

No. 20CV02180JST

**DECLARATION OF SARA H. CODY, M.D.,
IN OPPOSITION TO PLAINTIFFS’
APPLICATION FOR PRELIMINARY
INJUNCTION**

Date: May 20, 2020

Time: 2:00 p.m.

Judge: Honorable Jon S. Tigar

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18 I, SARA H. CODY, M.D., declare as follows:

19 1. I have personal knowledge of the facts set forth in this declaration. If called as a
20 witness, I could and would testify competently to the matters set forth herein.

21 2. I graduated from Stanford University, where I received a degree in Human Biology. I
22 received my Doctor of Medicine from Yale University School of Medicine. Following an Internship
23 and Residency in Internal Medicine at Stanford University Hospital, I completed a two-year
24 fellowship in Epidemiology and Public Health, as an Epidemic Intelligence Service (EIS) Officer
25 with the Centers for Disease Control and Prevention.

26 3. I am currently the Director of the County of Santa Clara’s Public Health Department, as
27 well as the Health Officer for the County and each of the 15 cities located within Santa Clara
28 County. I have held the Health Officer position since 2013. In these roles, I provide leadership on

1 public health issues for all of Santa Clara County and oversee approximately 450 Public Health
2 Department employees who provide a wide array of services to safeguard and promote the health of
3 the community.

4 4. Before becoming the Health Officer for the County and each of its cities, I was
5 employed for 15 years as a Deputy Health Officer/Communicable Disease Controller at the County's
6 Public Health Department, where I oversaw surveillance and investigation of individual cases of
7 communicable diseases, investigated disease outbreaks, participated in planning for public health
8 emergencies, and responded to Severe Acute Respiratory Syndrome (SARS), influenza A virus
9 subtype H1N1 (also known as "swine flu" or H1N1), and other public health emergencies.

10 5. The mission of the Public Health Department is to promote and protect the health of
11 Santa Clara County's entire population of approximately 1.9 million people. None of Santa Clara
12 County's 15 cities has a health department. All 15 cities, and all Santa Clara County residents, rely
13 on the Public Health Department to perform essential public health functions. The work of the
14 Public Health Department is focused on three main areas: (1) infectious disease and emergency
15 response; (2) maternal, child, and family health; and (3) healthy communities. The Public Health
16 Department's work is guided by core public health principles of equity, collaboration and inclusion,
17 and harm prevention. This work—in particular, infectious disease control and emergency
18 response—is critical to the health of the entire community countywide.

19 6. There has been a pandemic from a novel coronavirus that was first identified in
20 December 2019 and has since spread to most countries in the world, including the United States.
21 Worldwide, as of April 29, 2020, authorities have confirmed at least 3,090,445 cases, and 217,769
22 deaths. The United States reported its first case on January 21, 2020. The disease has since spread
23 rapidly throughout the country. As of April 29, 2020, public health authorities had confirmed at
24 least 1,005,147 cases in the United States, and 57,505 deaths. Experts consider this outbreak the
25 worst public health epidemic since the influenza outbreak of 1918.

26 7. Coronaviruses are a large family of viruses that can cause illness ranging from the
27 common cold to more severe diseases such as Middle East Respiratory Syndrome (MERS-CoV) and
28 Severe Acute Respiratory Syndrome (SARS-CoV). A novel coronavirus (nCoV) is a new strain that

1 has not been previously identified in humans. SARS-CoV-2 refers to the novel coronavirus
2 currently spreading throughout the world, and Coronavirus Disease-19 (COVID-19) is the disease
3 caused by SARS-CoV-2. The World Health Organization has deemed COVID-19 a pandemic.
4 There is currently no vaccine for the novel coronavirus and no specific treatment or cure for
5 COVID-19. In mild cases, COVID-19 causes fever, fatigue, cough, and shortness of breath. In
6 severe cases, it causes pneumonia, multi-organ system failure, and death.

7 8. The COVID-19 virus is known to be highly contagious, spreading easily between
8 individuals. The basic reproduction number for COVID-19—referred to as R_0 —has been estimated
9 to fall between 2.0 and 5.7, meaning that every person infected with COVID-19 will spread it, on
10 average, to between 2.0 and 5.7 other individuals.

11 9. Coronaviruses are known to spread primarily through the air by coughing or sneezing
12 and close personal contact, and to a lesser extent by touching objects or surfaces that have been
13 contaminated with coronaviruses and then touching one's mouth, nose, or eyes. While we have
14 known that people who have symptomatic SARS-CoV-2 infection are contagious and can spread
15 infection to others, we now also know that people with SARS-CoV-2 infection can spread infection
16 before symptoms develop and for some period of time after symptoms abate. We also now know
17 that people can have SARS-CoV-2 infection, never develop symptoms (asymptomatic infection),
18 and spread infection. The proportion of people who have asymptomatic infection has been estimated
19 to be anywhere from 25% to 75%. These findings underscore the importance of following social
20 distancing because even people without any symptoms can be contagious. Furthermore, coronavirus
21 can survive for several hours to several days on surfaces (hard, and particularly metal, surfaces are
22 conducive to longer survival periods) and thereby be indirectly transmitted between individuals. It is
23 therefore necessary to maximize the extent to which individuals stay in their homes in order to
24 reduce their chance of coming into contact with other people, and to a lesser extent, to reduce their
25 contact with surfaces that could be touched by others outside of their household—particularly high-
26 touch surfaces like door handles, retail show cases, retail products, and payment systems.

27 10. COVID-19 remains widespread in Santa Clara County; the County recorded the first
28 death from COVID-19 in the entire United States (February 7, 2020) in a person who had not

1 traveled or had contact with a known case. The County also announced two of the earliest cases of
2 travel-associated COVID-19 in the United States on January 31 and February 2. Community
3 transmission is believed to be widespread throughout the County, and limited testing capacity means
4 that confirmed case counts represent only a small portion of actual cases. As of April 29, 2020,
5 7.76% of all persons tested for COVID-19 in Santa Clara County tested positive.

6 11. As of March 5, the County had confirmed only 31 cases and no known deaths from
7 COVID-19 in the County (the February 7 death was retrospectively confirmed on April 21). Ten
8 days later, as of March 15, 2020, the County had confirmed 123 cases and at the time two known
9 deaths from COVID-19 in the County and 52 hospitalizations in County hospitals.¹ At the time,
10 there were only 339 available staffed ICU beds across all County hospitals, and a further 390 beds
11 that could be added to ICU capacity if staffing could be obtained. According to models of
12 transmission and hospitalization rates and experience with the rapid escalation of the confirmed case
13 count in the County, available hospital capacity and resources would quickly be overwhelmed
14 without immediate and strict intervention.

15 12. To slow virus transmission as much as possible to protect the most vulnerable, to
16 prevent deaths, and to prevent the health care system from being overwhelmed; and after
17 consideration of epidemiologic trends in countries with active COVID-19 epidemics, recognition of
18 the potential for exponential growth in the setting of a non-immune population, and guidance from
19 public health officials throughout the United States, on March 16, 2020, I issued a shelter-in-place
20 order directing all individuals living in the County to shelter at their place of residence, except to
21 engage in certain essential activities. Attached as Exhibit A is a true and correct copy of my March
22 16, 2020 Order. Health Officers from the six largest county jurisdictions in the San Francisco Bay
23 Area—including, in addition to Santa Clara, the Counties of Alameda, Contra Costa, San Mateo,
24 Marin, and San Francisco (along with the City of Berkeley, which has its own Health Officer)—
25 issued similar shelter-in-place orders at the same time to protect their respective communities.

26 _____
27 ¹ The Public Health Department has since changed its data reporting to reflect the date of specimen
28 collection, so the numbers on its dashboard are slightly different based on that reporting difference.

1 13. The goal of sheltering in place is to lower the number of total people who become
2 infected, and to slow the spread of infection in order to ensure that communities have enough
3 capacity and resources in their hospitals to care for people who develop severe illness, and
4 ultimately, to save lives. Sheltering in place is proven to slow the spread of the infection because it
5 decreases the number of people who are in contact with one another, thus decreasing the probability
6 that a person who is infectious might spread the infection to another person. Absent a vaccine,
7 social distancing is the single-most effective tool in slowing the spread of the virus in a population
8 with no natural immunity. My decision to issue the County Shelter-in-Place Order was informed by
9 the experiences of jurisdictions in other parts of the world which had instituted similar interventions
10 to slow the spread of the virus, by basic infectious disease models showing exponential growth in a
11 population with no natural immunity, and by a small surveillance study of influenza-like illness in
12 patients from a subset of our County clinics which showed that 11% were SARS-CoV-2 positive.²

13 14. The March 16, 2020 Order prohibited all individuals from leaving their place of
14 residence, except for the limited purposes of performing listed Essential Activities, such as visiting a
15 health care professional, performing essential work, or obtaining essential products. The Order
16 prohibited all travel, except Essential Travel, such as to carry out Essential Activities. All businesses
17 with a facility in the County, except essential businesses, as defined in the Order, were required to
18 cease all activities at those facilities except certain Minimum Basic Operations, which include the
19 minimum necessary activities to maintain and protect the value of inventory; ensure the security of
20 the facility; process payroll; and facilitate working remotely. The Order provided definitions of
21 these key terms. The Order also prohibited all public and private gatherings of any number, except
22 with members of individuals' own households.

23 15. The intent of the Order was to maximize the number of people isolating in their places
24 of residence while sustaining the provision of, and access to, the basic necessities of life during the
25 shelter-in place period. The list of essential businesses that could continue on-site operations during
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28 ² https://www.cdc.gov/mmwr/volumes/69/wr/mm6914e3.htm?s_cid=mm6914e3_w

1 this period was developed based on the immediacy of the need for the services and supplies the
2 businesses provide. Business types were identified as essential because they provide food, shelter,
3 medicine, healthcare services and supplies, personal hygiene products, and products and services
4 that enable people to isolate in their places of residences. Other business types were identified as
5 essential because they are necessary to the continuity of essential infrastructure and the basic
6 functions of society such as financial transactions (e.g. banks), access to critical information (e.g.
7 newspapers), and essential travel (e.g. gas stations and private transportation providers).

8 16. The Order did not restrict work or other activities that individuals perform at their
9 places of residences or their use or possession of personal property at their residences. It also
10 allowed people to continue purchasing and obtaining non-essential goods through remote
11 transactions and direct delivery to residences or by purchasing them at essential retail businesses in
12 the course of obtaining essential supplies.

13 17. The Order was based on evidence of the exponential growth of COVID-19 within the
14 County and scientific evidence and best practices regarding the most effective approaches to slow
15 the transmission of COVID-19. A proven way to decrease the probability of the virus being spread
16 from person to person is to limit interactions among people to the greatest extent practicable.
17 Allowing exceptions other than essential activities, essential businesses, and essential travel—even
18 with social distancing—would result in more interactions among people as well as more indirect
19 interactions as people come into shared contact with surfaces, resulting in more infections and more
20 deaths. Limiting the number, duration, and proximity of contacts between people is critical in
21 reducing the probability that the virus will spread from one person to another. Ensuring that every
22 person shelters in place to the maximum extent feasible therefore reduces the rate of transmission of
23 the SARS-CoV-2 infection (i.e. “flattens the curve”) more quickly than if we did not shelter in place.
24 This is especially true in a population with no immunity to the virus.

25 18. The number of confirmed cases in Santa Clara County increased almost seven-fold
26 from 123 to 848 between March 15, 2020 and March 29, 2020. In the larger region of six Bay Area
27 counties, the number of confirmed cases increased more than eight-fold from 258 to 2,092 in this
28 same period, and the number of confirmed deaths rose from 3 to 51. Case numbers for the Bay Area

1 counties provides total case counts by date of reporting. While evidence showed that the shelter-in-
2 place orders issued in the County and in neighboring jurisdictions had been effective in reducing
3 activity and reducing the rate of transmission of the SARS-CoV-2 infection, we needed to do more
4 to slow down the spread. In particular, I determined that it was necessary to narrow the list of
5 Essential Businesses to further limit the number of people working or purchasing goods and services
6 outside their places of residence and to impose measures to further limit person-to-person interaction
7 when people need to be outside their places of residence.

8 19. On March 31, 2020, I issued an updated shelter-in-place order that superseded the
9 March 16, 2020 Order, to improve social distancing (including adding a Social Distancing Protocol),
10 and to further reduce the total volume of person-to-person contact occurring in the County. The
11 March 31 order extends the shelter-in-place requirements through May 3, 2020. Attached as Exhibit
12 B is a true and correct copy of my March 31, 2020 Order. Again, I consulted with Health Officers
13 from the same six Bay Area jurisdictions listed above in designing the new shelter-in-place order,
14 and similar orders were simultaneously issued by these jurisdictions on March 31, 2020.

15 20. When I and the other Bay Area Health Officers issued shelter-in-place orders on March
16 31, 2020, the public health emergency had substantially worsened since our March 16, 2020 shelter-
17 in-place orders, with a significant escalation in the number of positive cases, hospitalizations, and
18 deaths, and a corresponding increasing strain on health care resources. At the same time, evidence
19 suggested that the restrictions on mobility and social distancing requirements imposed by the prior
20 orders were slowing the rate of increase in new cases and confirmed cases, consistent with models of
21 infectious disease transmission in a non-immune population.

22 21. The March 31 Order is more restrictive in a number of ways, including the following:
23 (1) social distancing requirements are mandatory; (2) by April 3, 2020, essential businesses that
24 continued to operate facilities in the County were required to complete, post, and implement a social
25 distancing protocol for each facility that remains open; (3) essential businesses must maximize the
26 number of employees who work from home, excepting only those employees who cannot perform
27 their job duties from home; (4) essential businesses that continue to operate facilities in the County
28 must scale down operations to their essential component only; (5) businesses that supply products

1 needed for people to work from home are no longer essential businesses and must cease operations;
2 (6) use of playgrounds, dog parks, public picnic areas, and similar recreational areas is prohibited;
3 (7) use of shared public recreational facilities such as golf courses, tennis and basketball courts,
4 pools, and rock walls is prohibited; (8) sports or activities that require use of shared equipment may
5 only be engaged in by members of the same household; and (9) most residential and commercial
6 construction is prohibited.

7 22. The additional restrictions on the list of essential businesses were imposed based on my
8 and the other Bay Area Health Officers' judgment that we needed to further limit business activities
9 by more narrowly defining the goods and services that provide for the basic necessities of life and
10 functioning of society. Thus, we eliminated all housing construction except for that necessary to
11 provide affordable housing, which is critical to reducing COVID-19 transmission among vulnerable
12 populations. We also limited construction of healthcare operations to facilities directly related to the
13 COVID-19 response and narrowed allowances for public works construction to those projects
14 designated as essential by the lead governmental agency. We likewise eliminated the allowance for
15 businesses providing supplies necessary for people to work from home based on my judgment that
16 certain businesses were exploiting this category to continue operation of non-essential businesses.

17 23. Although evidence indicates that the number of COVID-19 cases in our region does not
18 appear to have peaked, the shelter-in-place orders have slowed the spread of the virus. When the
19 March 16, 2020 Order was put in place, the number of new cases was growing rapidly. As discussed
20 below, at that time, the total confirmed case count in the County was doubling approximately every
21 5 days. But since then, the rate of doubling has slowed considerably to approximately 60 days.
22 Flattening the curve of confirmed cases has not only prevented morbidity and mortality—it has also
23 provided time for the County to significantly increase hospital capacity and healthcare resources to
24 ensure that we can provide care for patients with severe disease, to provide and obtain shelter for
25 homeless individuals and other vulnerable persons at high risk of infection, to increase testing
26 capacity across the County, and to take other critical measures to further slow the rate of spread and
27 prevent the healthcare system from becoming overwhelmed. However, the County and the Bay Area
28 are still facing the risk of escalating hospitalization and mortality if community transmission

1 becomes more widespread, and keeping restrictive shelter-in-place orders in place remains critical to
2 our ability to prevent a surge of COVID-19.

3 24. I have collaborated with Public Health Department epidemiologists and infectious
4 disease modeling experts at Stanford University’s School of Medicine to prepare model estimates of
5 cases and hospitalizations in Santa Clara County. These models were developed using data from our
6 County, including current case counts, current cases hospitalized, and information that we know
7 about the clinical course of cases here and elsewhere. They provide a projection of possible
8 outcomes and a range of uncertainty around those outcomes, their timing, and magnitude. While
9 there is a significant degree of uncertainty around these projections—and all others being prepared
10 by experts around the world—these estimates inform our planning, preparedness, and our
11 understanding of the impact of public health interventions. These projections should also be
12 interpreted knowing we still have limited testing capacity and therefore are not identifying all cases.
13 But our models strongly suggest that the shelter-in-place orders have had a significant impact on
14 what would have been more significant exponential growth in cases.

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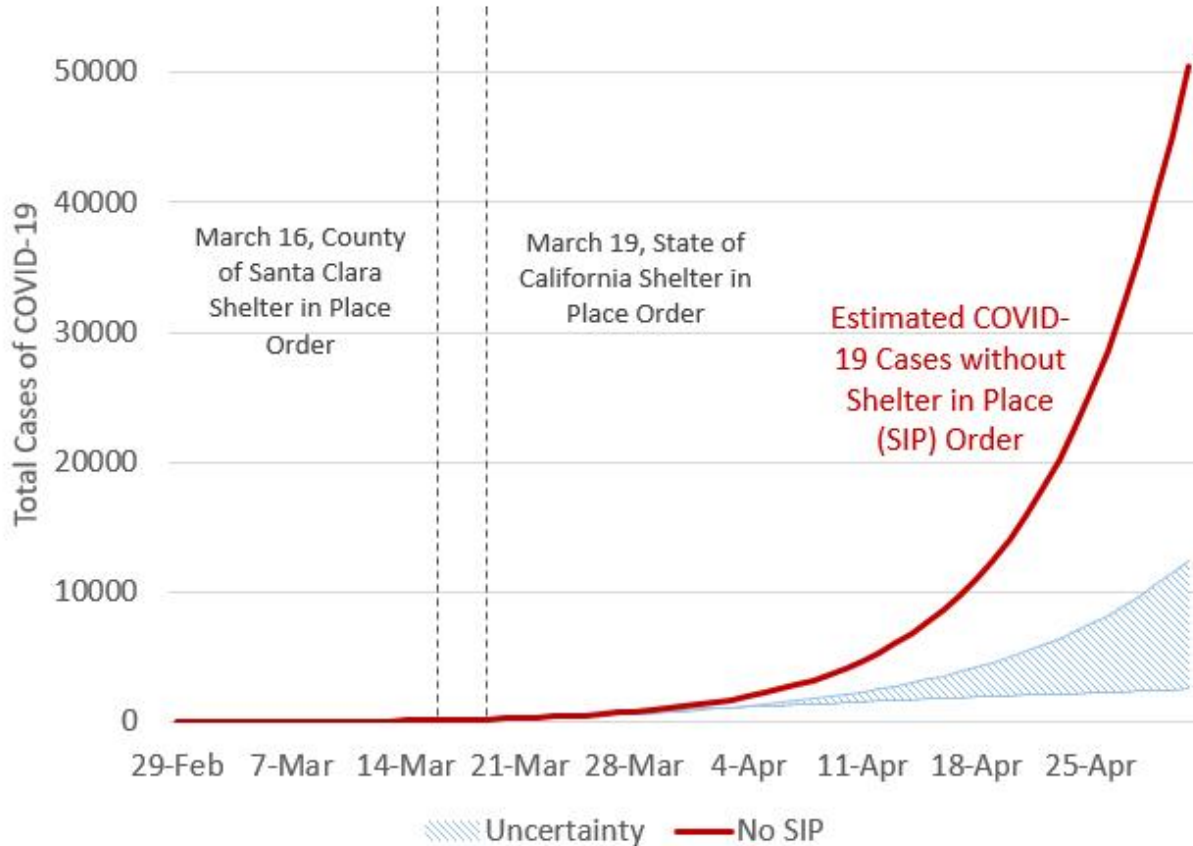
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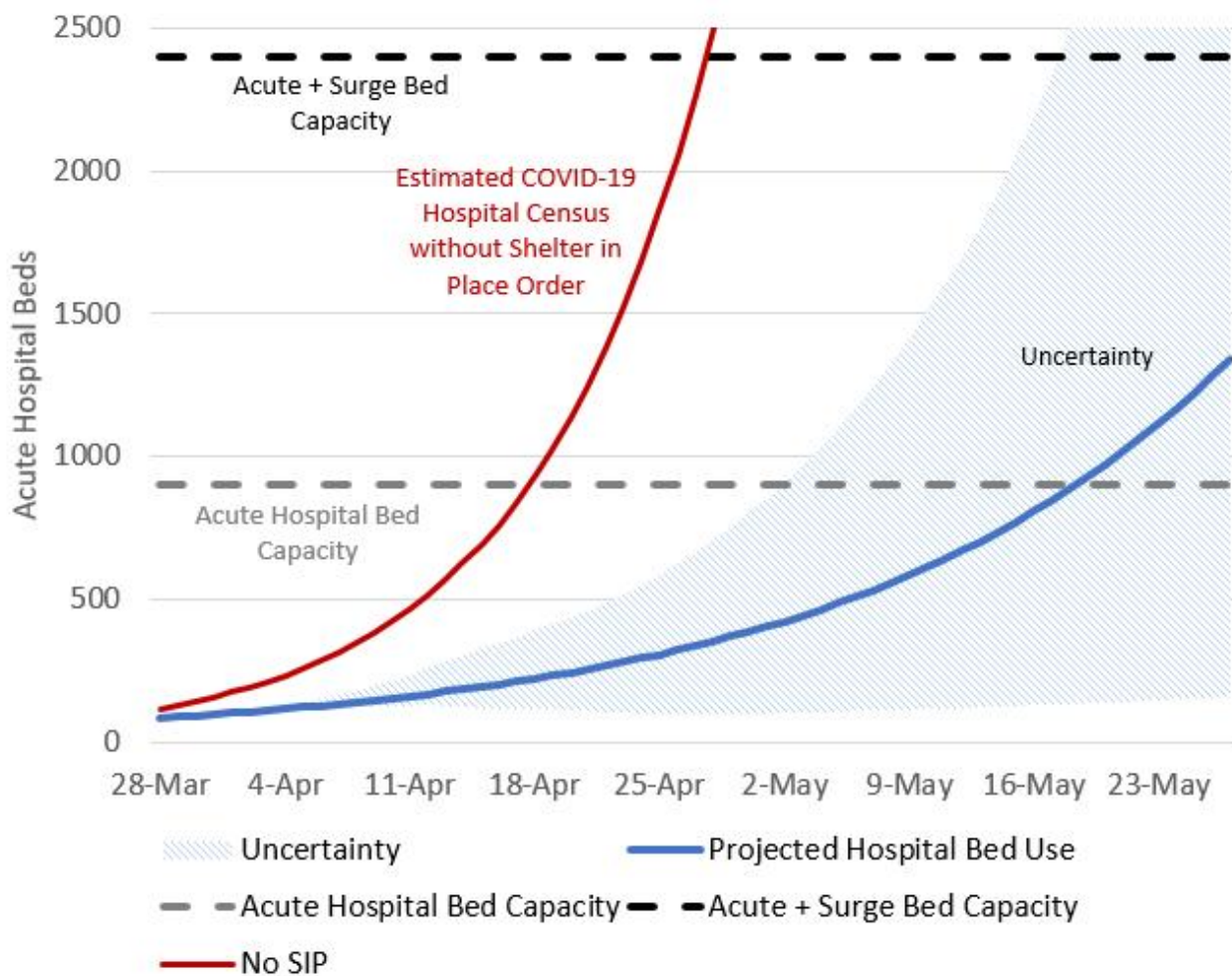
25. Below is a model of COVID-19 projected cases in Santa Clara County:



26. Had a shelter-in-place order not been put in place on March 16, 2020, and extended on March 31, 2020, we expect we would have had approximately 50,000 cases of COVID-19 in Santa Clara County by May 1, 2020. The red line above reflects the number of cases we expect we would have had absent the shelter-in-place orders, while the shaded area reflects the range of uncertainty in the actual number of cases. As this model indicates, because of the orders, our confirmed cases as of April 29, 2020 (approximately 2,163) are already more than an order of magnitude lower than the projected number of cases we expect we would have had absent a shelter-in-place orders (approximately 40,000). We believe we are now in the early stages of the “flattening of the curve” the orders were designed to achieve.

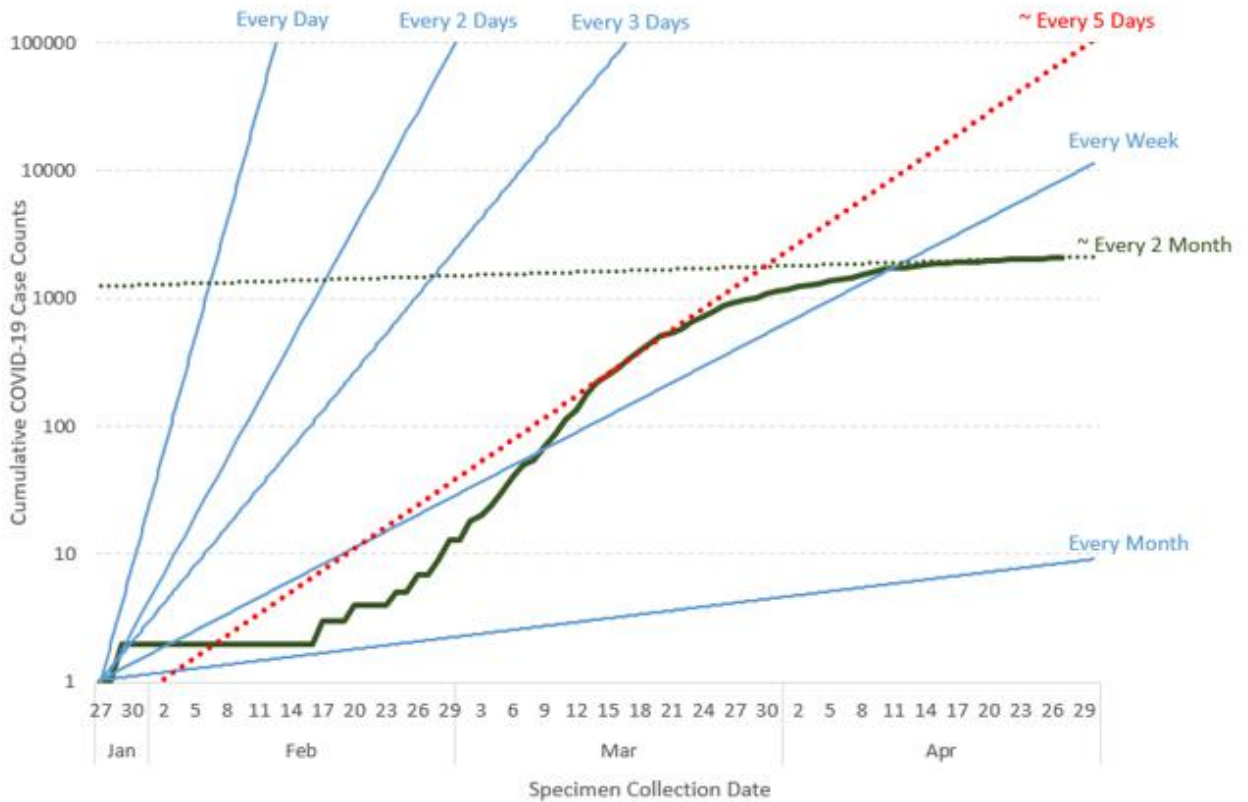
27. Looking forward in time, the model estimates that by May 1, 2020, our case counts are likely to be far lower than they would have been without the shelter-in-place orders. Many factors can change future outcomes, including our continued ability to maintain appropriate shelter-in-place restrictions.

28. Below is a model of projected acute hospital demand in the County to May 27, 2020:



29. Our models regarding hospitalizations due to COVID-19 likewise show the impact of the shelter-in-place orders. The red line in the graph above shows what we expect the number of hospitalized persons with COVID-19 would have been without the orders, and the blue line shows what we expect the number of hospitalized patients will be given the orders. The red line shows that without the orders, the County’s acute hospital bed capacity would likely have been exceeded by mid-April; and by the end of April the County’s increased hospital surge bed capacity would likely have been exceeded as well. Because sheltering-in-place slowed transmission, we hope to have sufficient capacity to treat all COVID-19 patients through at least mid-May, which is as far out as our and other models can reasonably provide projections. This “flattening of the curve” continues to give the County and our healthcare services community much needed additional time to increase our surge capacity.

30. Below is a model of doubling time of COVID-19 cases in the County:



31. One of the most important indicators of a slowing of the spread of COVID-19 is what we call the “doubling rate;” i.e., how many days it takes for the number of cases to double. A lower doubling rate means that the disease is spreading rapidly; while a higher doubling rate means it is taking longer for the number of cases to double, as the spread slows down. On March 16, when the first shelter-in-place order was issued, the case count was doubling approximately every 5 days. The current doubling rate is somewhere around 60 days. This means that the rate of spread has slowed significantly thanks to County residents complying with the shelter-in-place orders.

32. The data in other Bay Area counties—including Alameda, Contra Costa, and San Mateo Counties—similarly show that the shelter-in-place orders are increasing the doubling rate, slowing the spread of the virus, and allowing for time to increase hospital surge capacity. This will save many lives in our community.

33. Santa Clara County, the Bay Area, the United States, and the rest of the world have not seen a public health threat like this in more than 100 years. I—along with health officials from all

1 over the world—have concluded that the best course of action is a shared commitment to adhering to
2 preventative measures, including staying at home, social distancing, and washing your hands. We
3 do not take lightly asking people to stay home. We understand that people are suffering from real
4 impacts on their lives and livelihoods. We each have a part in slowing the spread of this virus.
5 Right now, we all need to reduce the number of people with whom each of us comes in contact. It
6 will save lives.

7 I declare under penalty of perjury under the laws of the United States of America that the
8 foregoing is true and correct. Executed at San José, California on May 1, 2020.

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10 Dated: May 1, 2020

Respectfully submitted,

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/S/ Sara H. Cody

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SARA H. CODY, M.D.

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EXHIBIT A

**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

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

Order of the County Health Officer
to Shelter in Place

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.

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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 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 B

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 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

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.)

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. 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. 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

Order of the County Health Officer
to Shelter in Place – March 31, 2020

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:
 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, 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 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.
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:


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

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):

Hand sanitizer effective against COVID-19 is available to all employees at the following location(s):

Soap and water are available to all employees at the following location(s):

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:

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

Appendix A: Social Distancing Protocol

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:
- 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.