

**IN THE DISTRICT COURT SEDGWICK COUNTY
EIGHTEENTH JUDICIAL DISTRICT OF KANSAS**

OMEGA BOOTCAMPS INC. and RYAN FLOYD)	
)	
)	
Plaintiffs,)	
)	
v.)	Case No.
)	
THE STATE OF KANSAS)	
)	
Defendant.)	
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**VERIFIED PETITION FOR COMPENSATION FOR GOVERNMENTAL USE OF
PRIVATE PROPERTY PURSUANT TO K.S.A. 48-933 AND K.S.A. 26-501 et seq.**

COMES NOW, Plaintiffs Omega Bootcamps Inc. and Ryan Floyd (hereinafter, collectively referred to as the “Plaintiff”) brings this action pursuant to the K.S.A. 48-933 and K.S.A. 26-501 *et seq.* to seek compensation for governmental use of Plaintiff’s private property interests.

INTRODUCTION

Plaintiff files this Verified Petition to seek compensation from the State of Kansas (“State” or “Defendant”) for use of its business property in coping with the COVID-19 pandemic. Since the initial state and local emergency declarations in March 2020, the State and Sedgwick County (Kansas) have issued sequential emergency public health orders pursuant to the Kansas Emergency Management Act (“KEMA”) to mitigate the spread of COVID-19. Such emergency orders both prohibited business use of Plaintiff’s property and constituted government use of the property in coping with the declaration of the pandemic. The government used Plaintiff’s property by asserting use proscriptions and control over Plaintiff’s property for the benefit of the general public to control the spread of COVID-19 virus.

KEMA grants extraordinary powers to the governor, adjutant general, counties, cities, interjurisdictional disaster agencies, or other emergency management forces in the state to issue orders directing the commandeering or use of private property interests to cope with a disaster. KEMA also provides that private property owners shall be compensated in the event property is commandeered or otherwise used in coping with a disaster. Defendant's emergency shut down orders prohibiting business use of all or targeted areas of Plaintiff's property constituted government "use" of property during declared emergency thus entitling Plaintiff to compensation for such use pursuant to K.S.A. 48-933 and K.S.A. 26-501 et seq.

THE PARTIES

1. Omega Bootcamps Inc. is Kansas corporation with a principal business location in Sedgwick County, Kansas. Omega Bootcamps Inc. is a specialized health and well-being semi-private fitness studio and gym.

2. Ryan Floyd is an individual and the sole officer and shareholder of Omega Bootcamps Inc. He is a resident of Sedgwick County, Kansas.

3. The State of Kansas is a governmental entity subject to a claim for use compensation pursuant to K.S.A. 48-933 and K.S.A. 26-501 et seq.

4. Sedgwick County, Kansas, ("Sedgwick County") is a governmental entity subject to a claim for use compensation pursuant to K.S.A. 48-933 and K.S.A. 26-501 et seq. However, Sedgwick County is not added as a defendant to this lawsuit as a party at this time. The Plaintiff reserves the right to add Sedgwick County, Kansas in the event that Plaintiff deems Sedgwick County's conduct directly actionable and not otherwise imputed to the State, in the Plaintiff's sole discretion. Nothing in this Petition should be construed as absolving Sedgwick County of

liability for compensation under KEMA due to it not being added as a party at this time. Plaintiff reserves the right to add Sedgwick County in the future.

JURISDICTION AND VENUE

5. This Court has jurisdiction and Plaintiff has a right to a hearing and the appointment of appraisers under 48-933 and K.S.A. 26-501 et seq.

6. Venue is proper in Sedgwick County, Kansas. The applicable orders affected Plaintiff's business operations in Sedgwick County and applied to Sedgwick County residents and businesses. Plaintiff Omega Bootcamps Inc. has its principal business location in Sedgwick County, Kansas and the harm done to Plaintiff occurred in Sedgwick County.

ALLEGATIONS COMMON TO ALL COUNTS

7. The United States and the State of Kansas has been in the midst of a declared Pandemic involving "COVID-19," a respiratory virus, since March 2020.

8. On March 12, 2020, the Governor of the State of Kansas issued a Disaster Proclamation related to COVID-19, activating certain powers under KEMA, stating that the area affected by the disaster extended uniformly throughout all 105 counties in Kansas, including Sedgwick County (the "March 12 State Disaster Declaration"). A copy of the March 12 State Disaster Declaration is attached hereto as **Exhibit A**.

9. On March 16, 2020, Peter F. Meitzner, the Chair of the Sedgwick County Commission issued a Proclamation of Local Disaster ("March 16 County Disaster Declaration") related to COVID-19 that expressly activated certain powers under KEMA. The March 16 County Disaster Declaration stated in part:

"WHEREAS, COVID-19 has created a state of local disaster in Sedgwick County, Kansas, as defined by K.S.A. 48-904, resulting in imminent threat of widespread or severe damage, injury or loss of life or property resulting from an epidemic, contagious or infectious disease. . .

Upon signing this Proclamation, I declare that Sedgwick County, Kansas is in a state of local disaster emergency, as defined by K.S.A. 48-904.”

A copy of the March 16 County Disaster Declaration is attached as **Exhibit B**.

10. Upon information and belief, Sedgwick County has at all times hereunder continued to extend the March 16 County Disaster Declaration since it was issued until the filing of this case as it is referenced in the local health orders referenced herein.

11. The March 16 County Disaster Declaration is in effect at the time this Petition is filed and there is genuine belief that it will continue to be extended or re-issued as needed.

12. On March 24, 2020, Dr. Garold Minns, the Sedgwick County Local Health Officer (“LHO”), issued an Emergency Order of Local Health Officer that directed individuals to stay home unless participating in certain allowed activities (“March 24, 2020 LHO Order”). The order also directed specific businesses to cease operations so as to benefit the general public. A copy of the March 24, 2020 LHO Order is attached as **Exhibit C**.

13. The March 24, 2020 LHO Order expressly relied on the March 16, 2020 County Disaster Declaration by stating, “WHEREAS, on March 16, 2020, the Chairman of the Board of County Commissioners found that a disaster was imminent within Sedgwick County, Kansas as a result of the COVID-19 infectious and contagious disease...” *See* Exhibit C.

14. The March 24, 2020 LHO Order was “effective 12:01 A.M. on Wednesday, March 25, 2020” and remained “in effect for 30 days, until April 23, 2020, unless sooner amended superseded, or rescinded.” *See* Exhibit C.

15. Among other things, the March 24, 2020 LHO Order allowed individuals to only “perform work providing essential products and services at an Essential Business or to otherwise

carry out activities specifically permitted in this Order.” *See* Exhibit C, Section 1, Paragraph B.iv.

16. In addition, the March 24, 2020 LHO Order allowed individuals to “work for or obtain services at any ‘Healthcare Operations,’” however, “fitness and exercise gyms” were specifically excluded. *See* Exhibit C, Section 1, Paragraph B.vii.

17. The March 24, 2020 LHO Order definition for “Essential Business” did not include gyms or fitness centers. *See* Exhibit C.

18. In responding to KSN News, the county unequivocally stated that “gymnasiums and fitness centers” could not remain open under the March 24, 2020 LHO Order.¹

19. Accordingly, for the benefit of the general public, the Plaintiff’s business was targeted and ordered to cease operation by the March 24, 2020 LHO Order at 12:01 A.M. on Wednesday, March 25, 2020 for 30 days, until April 23, 2020, unless sooner amended superseded, or rescinded. *See* Exhibit C.

20. By issuing the March 24, 2020 LHO Order, the Sedgwick County LHO was operating in concert with the March 12 State Disaster Declaration. Accordingly, the Sedgwick County actions should be construed as operating in concert with the State of Kansas, making the State of Kansas responsible for compensation related to the March 24, 2020 LHO Order under the plain language of K.S.A. 48-933.

21. At the time the order shut down its business, Plaintiff intended and wished to operate its business and otherwise use its property for its gym and fitness center operations but was prohibited from doing so by Sedgwick County’s use of such property pursuant to an order

¹ “Update – Sedgwick County stay-at-home order: Frequently Asked Questions,” *KSN News* (March 24, 2020) available at <https://www.ksn.com/news/health/coronavirus/coronavirus-in-kansas/sedgwick-county-stay-at-home-order-frequently-asked-questions/> (last accessed December 2, 2020).

by Dr. Garold Minns, the Sedgwick County LHO, in coping with the COVID-19 disaster on behalf of the general public.

22. Over the next few weeks, Kansas Governor Laura Kelly issued a number of executive orders limiting mass gatherings and limiting personal and business freedoms.

23. In particular, on March 28, 2020, the Governor issued Executive Order 20-16² (“EO 20-16”) which established the Kansas Essential Functions Framework (“KEFF”) categorizing “essential functions” and designated businesses “essential” or “non-essential.” A copy of EO 20-16 is attached hereto as **Exhibit D**.

24. EO 20-16 stated it was effective “12:01 a.m. on March 30, 2020” and in effect until “April 19, 2020, or until the statewide State of Disaster Emergency proclaimed on March 12, 2020, relating to COVID-19 expires, whichever is earlier.” *See* Exhibit D.

25. EO 20-16’s criteria for “essential businesses” did not include gyms or fitness centers. *See* Exhibit D.

26. Guidance from the Kansas Governor’s Office specifically stated that “gyms and personal trainers” were not considered “essential functions.”³

27. Accordingly, by issuing EO 20-16, the Kansas Governor ordered that the Plaintiff’s business use of its property remain out of operation in response to the COVID-19 declarations for the benefit of the general public.

28. Because operation of Plaintiff’s business was already ceased, EO 20-16 ordered Plaintiff’s business to remain out of operation until “12:01 a.m. on March 30, 2020.” Such order to remain out of operation was in effect until “April 19, 2020, or until the statewide State of

² Available at <https://governor.kansas.gov/wp-content/uploads/2020/03/EO20-16.pdf> (last accessed December 2, 2020).

³ Available at <https://governor.kansas.gov/kansas-essential-functions-faq/> (last accessed December 2, 2020).

Disaster Emergency proclaimed on March 12, 2020, relating to COVID-19 expires, whichever [was] earlier.”

29. At the time, the Plaintiff wished to operate its business and otherwise use its property and the business property for operations but was denied such ability by the State of Kansas’ use of such property involuntarily pursuant to an order by the Kansas Governor in coping with the COVID-19 disaster for the benefit of the general public.

30. On April 16, 2020, the Kansas Governor issued Executive Order 20-24 (“EO 20-24”) extending EO 20-16 “until 11:59 p.m. on May 3, 2020, or until the statewide State of Disaster Emergency proclaimed on March 12, 2020, relating to COVID-19 expires, whichever [was] earlier.” A copy of EO 20-24 is attached hereto as **Exhibit E**.

31. Accordingly, the Plaintiff’s business was ordered to remain out of operation for the benefit of the general public by EO 20-24 “until 11:59 p.m. on May 3, 2020, or until the statewide State of Disaster Emergency proclaimed on March 12, 2020, relating to COVID-19 expires, whichever [was] earlier.” *See* Exhibit E.

32. At the time, Plaintiff wished to operate its business and otherwise use its property for its gym and fitness center operations but was prohibited from doing so by the State of Kansas’ use of such property pursuant to an order by the Kansas Governor in coping with the COVID-19 disaster.

33. On April 30, 2020 the Governor of the State of Kansas issued a Disaster Proclamation related to COVID-19 activating certain powers under KEMA (the “April 30, 2020 Disaster Declaration”), declaring the area affected by the disaster as the “[e]ntire 105 counties in Kansas; Iowa Tribe of Kansas and Nebraska; Kickapoo Tribe of Kansas; Prairie Band of Potawatomi Nation; and Sac and Fox Nation of the Missouri in Kansas and Nebraska.” This area

included Sedgwick County. A copy of the April 30, 2020 Disaster Declaration is attached hereto as **Exhibit F**.

34. On April 30, 2020, the Kansas Governor issued Executive Order 20-29 (“EO 20-29”) beginning “Phase One of “Ad Astra: A Plan to Reopen KANSAS.” EO 20-29 went into effect 1200 a.m. on May 4, 2020 and was to remain in effect “until rescinded or until the statewide State of Disaster Emergency proclaimed on April 30, 2020, relating to COVID-19 expires, whichever is earlier.” A copy of EO 20-29 is attached hereto as **Exhibit G**.

35. Paragraph 5.c.iv of EO 20-29 stated that “Fitness centers and gyms” were to remain closed to the public unless they were somehow repurposed under KEFF. However, no guidance was given by EO 20-29 on how such repurposing might occur or how such “repurposing” could allow the business to continue. *See* Exhibit G.

36. Accordingly, the Plaintiff’s business was ordered to remain out of operation by EO 20-29 “until rescinded or until the statewide State of Disaster Emergency proclaimed on April 30, 2020, relating to COVID-19 expires, whichever [was] earlier.” *See* Exhibit G.

37. At the time, Plaintiff wished to operate its business and otherwise use its property for its gym and fitness center operations but was prohibited from doing so by the State of Kansas’ use of such property pursuant to an order by the Kansas Governor issued to cope with the COVID-19 disaster for the benefit of the general public.

38. On May 14, 2020, the Kansas Governor issued Executive Order 20-31 (“EO 20-31”) “Implementing Phase 1.5 of “Ad Astra: A Plan to Reopen KANSAS’.” EO-20-31 went into effect 12:00 a.m. on May 18, 2020, and was to “remain in force until rescinded or until the statewide State of Disaster Emergency proclaimed on April 30, 2020, relating to COVID-19 expires, whichever [was] earlier.” A copy of EO 20-31 is attached hereto as **Exhibit H**.

39. EO 20-31 allowed gyms and fitness centers to open, subject to the following conditions:

- They maintain at least 6 feet of distance between customers or groups of customers;
- They follow fundamental cleaning and public health practices detailed on [covid.ks.gov](https://www.covid.ks.gov); and
- They avoid any instances in which groups of more than 10 individuals are in one location and unable to maintain a 6-foot distance with only infrequent or incidental moments of closer proximity. This does not limit the total occupancy of a business, but requires that businesses limit mass gatherings in areas and instances in which physical distancing cannot be maintained, such as at tables or in entrances, lobbies, break rooms, check-out areas, etc.

See Exhibit H, Paragraph 5.a.

40. In addition, EO 20-31 exerted further control on gyms and fitness centers in comparison to other businesses by stating, “[f]itness centers and health clubs may open, but in-person group classes may not occur and locker rooms must be closed except as necessary to use restroom facilities.” *See Exhibit H, Paragraph 5.c.ii.*

41. Accordingly, the Kansas Governor used the Plaintiff’s business by proscribing business use of its locker rooms and preventing its normal business operations of conducting in person classes until EO 20-31 was rescinded or until the statewide State of Disaster Emergency proclaimed on April 30, 2020, relating to COVID-19 expires, whichever was earlier.

42. At the time, Plaintiff wished to operate its business and otherwise use its property for its gym and fitness center operations but was prohibited from doing so by the State of Kansas’ use of such property pursuant to an order by the Kansas Governor issued to cope with the COVID-19 disaster for the benefit of the general public.

43. The closure of Plaintiff’s locker rooms had an economic impact on Plaintiff’s business as patrons were not allowed to change or shower, which decreased business overall.

44. On May 19, 2020, the Kansas Governor issued Executive Order 20-34, “Implementing Phase 2 of ‘Ad Astra: A Plan to Reopen KANSAS.’” EO 20-34 went into effect

12:00 a.m. on May 22, 2020, and was to remain in effect “until rescinded or until the statewide State of Disaster Emergency proclaimed on April 30, 2020, relating to COVID-19 expires, whichever is earlier.” A copy of EO 20-34 is attached hereto as **Exhibit I**.

45. EO 20-34 allowed gyms and fitness centers to open, subject to the following conditions:

- They maintain at least 6 feet of distance between customers or groups of customers;
- They follow fundamental cleaning and public health practices detailed on [covid.ks.gov](https://www.covid.ks.gov); and
- They avoid any instances in which groups of more than 10 individuals are in one location and unable to maintain a 6-foot distance with only infrequent or incidental moments of closer proximity. This does not limit the total occupancy of a business, but requires that businesses limit mass gatherings in areas and instances in which physical distancing cannot be maintained, such as at tables or in entrances, lobbies, break rooms, check-out areas, etc.

See Exhibit I, Paragraph 5.a.

46. In addition, EO 20-34 exerted further control on gyms and fitness centers by directing that fitness centers and health clubs may open, including in-person group classes but only if they comply with the restrictions listed above, but locker rooms were to be closed except as necessary to use restroom facilities. *See Exhibit I, Paragraph 5.c.ii.*

47. Governor used the Plaintiff’s business by proscribing business use of its locker rooms until EO 20-34 was rescinded or until the statewide State of Disaster Emergency proclaimed on April 30, 2020, relating to COVID-19 expired, whichever was earlier.

48. At the time, the Defendant wished to operate its business by utilizing locker rooms but was prohibited from doing so by the State of Kansas’ use of such property pursuant to an order by the Kansas Governor issued to cope with the COVID-19 disaster.

49. On May 26, 2020, the Kansas Governor announced her intention to relay on to Kansas counties the responsibility to impose restrictions to cope with the COVID-19 disaster if they deemed it necessary.⁴

50. In conjunction with her announcement, the April 30, 2020 Disaster Declaration and EO 20-34 both expired. At the same time, the Governor of the State of Kansas issued a new Disaster Proclamation related to COVID-19 activating certain powers under KEMA (“the May 26, 2020 State Disaster Declaration”), stating that the area affected by the disaster “Entire 105 counties in Kansas; Iowa Tribe of Kansas and Nebraska; Kickapoo Tribe of Kansas; Prairie Band of Potawatomi Nation; and Sac and Fox Nation of the Missouri in Kansas and Nebraska.” This area included Sedgwick County. A copy of the May 26, 2020 State Disaster Declaration is attached hereto as **Exhibit J**.

51. The May 26, 2020 Disaster Declaration has been extended by the State Finance Council from time to time as required under KEMA. The declaration is still in effect at the time this Petition is filed.

52. On May 27, 2020, the Sedgwick County Commission decided not to impose additional restrictions on businesses but rather make recommendations on safe business practices.

53. Accordingly, on May 27, 2020, the State of Kansas relinquished its use of Plaintiff’s property at that time.

54. However, on July 8, 2020, the Sedgwick County began to issue a series of new local health orders to cope with the COVID-19 disaster for the benefit of the general public.

⁴ Melissa Greenstein, “KS Gov. Puts Re-opening Plan in Counties’ Hands,” KSHB Kansas City (May 26, 2020) available at <https://www.kshb.com/news/coronavirus/ks-gov-laura-kelly-puts-reopening-plan-in-counties-hands> (last accessed December 3, 2020).

Such orders were issued in conjunction with the May 26, 2020 State Disaster Declaration under KEMA.

55. The government use of Plaintiff's property from March 25, 2020 to May 26, 2020 was particularly onerous on the Plaintiff when compared to other businesses and individuals, and particularly compared with those businesses considered "essential" during this timeframe. Accordingly, the Plaintiff shouldered a disproportionate economic impact for the overall public good in coping with COVID-19. Therefore, the Plaintiff's obligations exceeded those of most other businesses and individuals in the Plaintiff's particular case. Accordingly, the Plaintiff is entitled to compensation under KEMA and the Eminent Domain Procedure Act ("EDPA").

56. The scheme described above categorized certain businesses as favored "essential" status and others, like Plaintiff, as disfavored "non-essential" status and thus targeted for closure by orders issued pursuant to KEMA. Accordingly, Plaintiff is entitled to compensation under KEMA and the EDPA.

57. Such targeting of specific businesses for the shouldering of disproportionate burdens for the public good constitutes targeted and excessive use of private property by the government under KEMA.

58. K.S.A. 48-933 provides:

- (a) Each person within this state shall act and manage the affairs of such person and such person's property in any way which reasonably will assist and not detract from the ability of the state and the public successfully to meet disasters. This obligation includes appropriate personal service and use or restriction on the use of property during a declared state of disaster emergency under K.S.A. 48-924, and amendments thereto, or a declared state of local disaster emergency under K.S.A. 48-932, and amendments thereto. This act neither increases nor decreases these obligations, but recognizes their existence under the constitution and statutes and the common law of this state. Compensation for services or for the taking or use of property shall be

only to the extent that obligations recognized in this subsection are exceeded in a particular case and then only to the extent that the claimant may not be deemed to have volunteered services or property without compensation. . . .

- (c) Compensation for property shall be only if the property was commandeered or otherwise used in coping with a disaster and its use or destruction was ordered by the governor, adjutant general, an official of a county, city or interjurisdictional disaster agency, or some other authorized member of the emergency management forces of this state.
- (d) Any person claiming compensation for the use, damage, loss or destruction of property under this act shall file a claim therefor in the district court in the same manner as any other civil action. The court shall determine the validity of such claim in the same manner and under the same conditions prescribed for condemnation actions pursuant to K.S.A. 26-501 et seq., and amendments thereto. Unless the amount of compensation on account of property damaged, lost or destroyed is agreed upon by the claimant and the adjutant general, the amount of compensation shall be calculated in the same manner as compensation due for a taking of property pursuant to the condemnation law of this state.

K.S.A. 48-933.

**COUNT I – CLAIM FOR COMPENSATION FROM THE STATE OF KANSAS
PURSUANT TO K.S.A. 48-933**

59. Plaintiff includes and incorporates at this point each and every allegation contained within this pleading.

60. From March 25, 2020 through May 17, 2020, the State of Kansas was under the above-referenced disaster declarations pursuant to KEMA.

61. During this period, the Sedgwick County LHO's March 24, 2020 LHO Order and Kansas Governor's EO 20-16, 20-24, and 20-29 prohibited the Plaintiff from operating in its indoor property.

62. During this period, Plaintiff's property was used by the State in coping with the COVID-19 pandemic to cope with the above-referenced declared disasters when the state prohibited the indoor business activity the Plaintiff's property was uniquely designed and outfitted to facilitate or employ commercially.

63. From March 25, 2020 to May 17, 2020, Plaintiff's property was used in coping with the COVID-19 disaster and its use was ordered by the Governor and the Sedgwick County LHO pursuant to the above-referenced orders and disaster declarations issued under KEMA.

64. Plaintiff is entitled for compensation for each day from March 25, 2020 through May 17, 2020 that the State and Sedgwick County exerted control over its property or otherwise used its property to cope with the above-referenced declared disaster.

**COUNT II – CLAIM FOR COMPENSATION FROM THE STATE OF KANSAS
PURSUANT TO K.S.A. 48-933**

65. Plaintiff includes and incorporates at this point each and every allegation contained within this pleading.

66. From May 18, 2020 through May 21, 2020, the State of Kansas was under the above-referenced disaster declarations pursuant to KEMA.

67. During this period, the Kansas Governor's EO-20-31 prohibited the Plaintiff from fully operating its indoor properties by disallowing in-person classes and use of locker rooms.

68. During this period, Plaintiff's property was used by the State in coping with the COVID-19 Pandemic by prohibiting specific areas and business uses of Plaintiff's property that the property was uniquely designed and outfitted to facilitate or employ commercially.

69. From May 18, 2020 through May 21, 2020, Plaintiff's property was used in coping with the COVID-19 disaster and its use was ordered by the Kansas Governor pursuant to the above-referenced orders and disaster declarations issued under KEMA.

70. Plaintiff is entitled for compensation for each day from May 18, 2020 through May 21, 2020 in that the State exerted control over its property or otherwise used its property to cope with the declared disaster.

**COUNT III – CLAIM FOR COMPENSATION FROM THE STATE OF KANSAS
PURSUANT TO K.S.A. 48-933**

71. From May 22, 2020 through May 25, 2020, the State of Kansas was under the above-referenced disaster declarations pursuant to KEMA.

72. During this period, the Kansas Governor’s EO 20-34 prohibited the Plaintiff from fully operating its indoor properties by closing locker rooms except as necessary to use restroom facilities.

73. During this period, Plaintiff’s property was used by the State in coping with the COVID-19 Pandemic by prohibiting specific areas and business uses of Plaintiff’s property that the property was uniquely designed and outfitted to facilitate or employ commercially.

74. From May 22, 2020 through May 25, 2020, Plaintiff’s property was used in coping with the COVID-19 disaster and its use was ordered by the Kansas Governor pursuant to the above-referenced orders and disaster declarations issued under KEMA.

75. Plaintiff is entitled for compensation for each day from May 18, 2020 through May 21, 2020 in that the State exerted control over its property or otherwise used its property to cope with the declared disaster.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court:

- a. Enter a judgment declaring that Omega Bootcamps Inc. is entitled to compensation for governmental use of its property and property interests in coping with the COVID-19 disaster;
- b. Appoint an appraiser panel to determine to amount of compensation required as required by K.S.A. 26-501 et seq.

- c. Schedule and conduct a trial to determine the amount of compensation owed, if necessary, after the appraiser panel makes its report as required by K.S.A. 26-501 et seq.
- d. Award Plaintiff's court costs and reasonable attorney fees; and
- e. Award such other and further relief as to which Plaintiff may be entitled.

JURY DEMAND

Plaintiff hereby demand a trial by jury of all issues so triable.

Respectfully submitted this 8th day of December, 2020.

/s/ Ryan A. Kriegshauser
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ATTORNEYS FOR PLAINTIFF

VERIFICATION

I declare under penalty of perjury that the foregoing Verified Complaint has been examined by me and that the factual allegations therein are true.

Dated: December 8, 2020

Ryan Floyd
As an individual and for Omega Bootcamps Inc.

EXHIBIT A

STATE OF DISASTER EMERGENCY PROCLAMATION

Executive Department
State of Kansas
Topeka, Kansas

By the Governor

By virtue of the authority vested in me by the Kansas Emergency Management Act, Chapter 48, Article 9, of the Kansas Statutes Annotated, to meet the inherent dangers of disasters to which the State and its citizens have been exposed, and upon advice of the State Adjutant General as the Director of the Division of Emergency Management, I hereby proclaim a State of Disaster Emergency as follows:

NATURE OF THE DISASTER:

On March 7, 2020, the Secretary of the Kansas Department of Health & Environment (KDHE) confirmed the first case of novel coronavirus (COVID-19) in the state of Kansas and considers that a public health emergency exists within the state of Kansas. The United States Centers for Disease Control and Prevention (CDC) identifies the potential public health threat posed by COVID-19 both globally and in the United States as “high” and the United States Department of Health & Human Services declared a public health emergency for COVID-19 beginning January 27, 2020. The World Health Organization (WHO) declared a global pandemic on March 11, 2020. The first COVID-related fatality occurred in Kansas on March 12, 2020.

The Kansas Department of Health & Environment (KDHE) is providing guidance and taking measures to minimize the risk of exposure and infection to the state’s general public while supporting public health and medical professionals with disease investigation, lab testing, epidemiology surveillance and other activities associated with the control and spread of the virus.

The Kansas Division of Emergency Management (KDEM) is coordinating resources across state government to support local public health and county emergency managers in alleviating the impacts to people, property, and infrastructure and assessing the magnitude and long-term effects of the incident.

DATE THAT DISASTER AFFECTED THE AREA:

March 12, 2020

AREA AFFECTED BY THE DISASTER:

Entire 105 counties in Kansas.

I hereby proclaim, direct and order the Adjutant General of the State of Kansas to activate the disaster response and recovery portions of the Kansas Response Plan. The Adjutant General shall coordinate local and inter-jurisdictional disaster plans applicable to the political subdivisions of areas affected by this Proclamation.

Any or all of the powers conferred upon the Governor by the Kansas Emergency Management Act may be delegated to the Adjutant General as deemed appropriate during this period of proclaimed State of Disaster Emergency. This may be delegated by written orders, or oral orders subsequently reduced to writing with reference to this Proclamation.

I hereby suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the order or rules and regulations of any state agency which implements such statute, if strict compliance with the provisions of such statutes, order or rule and regulation would prevent, hinder, or delay in any way necessary action in coping with the disaster as set forth in KSA 48-925(c)(1).

This Proclamation shall be filed promptly with the Division of Emergency Management, the Office of the Secretary of State and each city clerk or county clerk, as appropriate, in the area to which this Proclamation applies. Further dissemination of this Proclamation shall occur by means calculated to bring its contents to the attention of the general public.

DONE At the Capitol in
Topeka Under the Great Seal of
the State this 12, day of March
A.D., 2020

THE GOVERNOR:





Secretary of State



Assistant Secretary of State

EXHIBIT B

**CHAIRMAN'S PROCLAMATION DECLARING LOCAL DISASTER EMERGENCY
ARISING FROM THE IMMINENT THREAT OF THE SPREAD OF NOVEL
CORONAVIRUS DISEASE 2019 (COVID-19)**

WHEREAS, the novel coronavirus disease 2019 (COVID-19) is an infectious and contagious disease which has become a global pandemic that has resulted in severe health problems and death of thousands of individuals worldwide;

WHEREAS, on March 12, 2020, the Governor of the State of Kansas proclaimed a State of Disaster Emergency exists in the entire 105 counties in Kansas as a result of the virus;

WHEREAS, on March 13, 2020, a patient in a Sedgwick County, Kansas medical facility tested positive for the virus;

WHEREAS, on March 16, 2020, pursuant to K.S.A. 65-119, Sedgwick County's local health officer ordered all public gatherings in excess of fifty (50) attendees shall be prohibited or restricted within Sedgwick County, Kansas as a preventive measure to contain the virus;

WHEREAS, on March 13, 2020, the President of the United States declared COVID-19 a National Emergency;

WHEREAS, COVID-19 has created a state of local disaster in Sedgwick County, Kansas, as defined by K.S.A. 48-904, resulting in imminent threat of widespread or severe damage, injury or loss of life or property resulting from an epidemic, contagious or infectious disease; and

WHEREAS, the Chairman of the Board of County Commissioners of Sedgwick County, Kansas wishes to declare Sedgwick County, Kansas is in a state of local disaster emergency and has authority to do so pursuant to K.S.A. 48-932(a).

THEREFORE, I, Chairman Peter F. Meitzner, proclaim as follows:

The threat of COVID-19 is imminent within Sedgwick County, Kansas;

Upon signing this Proclamation, I declare that Sedgwick County, Kansas is in a state of local disaster emergency, as defined by K.S.A. 48-904;

This state of local disaster emergency shall remain in effect for no more than 7 days;

The response and recovery aspects of all local disaster plans which are applicable to Sedgwick County, Kansas shall be initiated for the rendering of aid and assistance there under; and

Any rights or powers lawfully exercised or any actions taken pursuant to local disaster emergency plans shall have full force and effect as authorized by law unless modified or terminated in the manner prescribed by law.

DATED THIS 16th day of March, 2020.

ATTEST:


KELLY B. ARNOLD, County Clerk




PETER F. MEITZNER, Chairman
Commissioner, First District

EXHIBIT C



*Sedgwick County...
working for you*

**EMERGENCY ORDER OF THE SEDGWICK
COUNTY LOCAL HEALTH OFFICER**

March 24, 2020

Applicable within the entirety of Sedgwick County, Kansas

This Emergency Public Health Order is effective the 25th day of March, 2020, at 12:01 A.M. to mitigate the spread of the novel coronavirus disease 2019 (COVID-19) epidemic in Sedgwick County, Kansas pursuant to the authority provided in K.S.A. 65-119, Sedgwick County Charter Resolution No. 58, and other applicable laws or regulations.

WHERE AS, the Local Health Officer is authorized and required, pursuant to K.S.A. 65-119, and Sedgwick County Charter Resolution No. 58 to immediately exercise and maintain a supervision over known or suspected cases of any infectious or contagious disease during its continuance, and to issue orders seeing that all such cases are properly handled and that the provisions of the Kansas public health laws as to isolation, quarantine, and disinfection are duly enforced; and

WHEREAS, the Local Health Officer is appointed by Sedgwick County pursuant to Charter Resolution No. 58 and is authorized, pursuant to K.S.A. 65-119(a) to prohibit public gatherings when necessary for the control of any and all infectious or contagious diseases, and to use all known measures to prevent the spread of any infectious, contagious, or communicable disease pursuant to Charter Resolution No. 58 and consistent with K.S.A. 65-202; and

WHEREAS, on March 16, 2020, the Chairman of the Board of County Commissioners found that a disaster was imminent within Sedgwick County, Kansas as a result of the COVID-19 infectious and contagious disease; and

WHEREAS, on March 18, 2020, the Board of County Commissioners voted to extend the Sedgwick County state of local disaster emergency for 60 days; and

WHEREAS, COVID-19 is a respiratory disease that spread easily from person to person and may result in serious illness or death, has been confirmed in Kansas and Sedgwick County, resulting in serious illness and multiple deaths to date in Kansas; and

WHEREAS, such conditions endanger health, safety, and welfare of persons and property within Sedgwick County, Kansas; and

WHEREAS, to reduce the spread of COVID-19, the United States Centers for Disease Control (CDC), the Kansas Department of Health and Environment (KDHE), and the

Sedgwick County Local Health Officer, all recommend implementation of community mitigation strategies to increase containment of COVID-19, including cancellation of large gatherings and social distancing in smaller gatherings; and

WHEREAS, the worldwide outbreak of COVID-19 and the resulting epidemic in Kansas and Sedgwick County continue to threaten the life and health of our citizens and visitors as well as the vitality of the economy and remains a public disaster affecting life, health, property, and the public peace; and

WHEREAS, this public health order to stay at home is being issued to slow the rate of community spread of COVID-19 through intensified social distancing. It is estimated that each COVID-19 positive person could infect between 2.6 to 4 other people. Furthermore, there is emerging evidence of transmission among pre-symptomatic and asymptomatic people, making routine case-finding and exposure tracing strategies insufficient. Social distancing strategies are effective when implemented early enough—ideally within 2 weeks of the first case and are key to flattening the epidemic curve to prevent overwhelming our local health care system’s ability to care for the proportion of residents who develop severe symptoms. Early implementation of this strategy is even more important in the context of limited available testing. With full community cooperation, this proactive health order can minimize the impact of COVID-19 on our Sedgwick County community.

NOW, THEREFORE, BE IT ORDERED by the Sedgwick County Local Health Officer, pursuant to the above authorities that:

Section 1. Definitions and Exemptions

- A. For purposes of this Order, “Social Distancing Requirements” means maintaining at least 6 feet of social distancing from other individuals, washing hands with soap and water for at least 20 seconds as frequently as possible or using hand sanitizer, covering coughs and sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, and not shaking hands.
- B. For purposes of this Order, individuals are directed to stay at home and leave their residence only to perform any of the following “Essential Activities” as described below. All businesses and operations in Sedgwick County, except Essential Businesses as defined below, are required to cease all activities at their places of business, although such businesses may also continue operations consisting exclusively of employees or contractors performing activities from their own residences (i.e., working from home). People at high risk of severe illness from COVID-19 and people who are sick are urged to stay in their residence 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, or visiting a health care professional;

- ii. To obtain necessary services or supplies for themselves and their family or household members, to obtain supplies they need to work from home, 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, 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. Individuals may use parks or other public areas. However, use of playground equipment is discouraged;
- iv. To perform work providing essential products and services at an Essential Business or to otherwise carry out activities specifically permitted in this Order;
- v. To care for a family member or pet in another household, or engage in transportation or to transport the family member or pet to provide for such care;
- vi. To comply with valid court or administrative orders;
- vii. To work for or obtain services at any “Healthcare Operations” location 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 on the delivery of healthcare, broadly defined. “Healthcare Operations” does not include activities at fitness and exercise gyms and similar facilities;
- viii. 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, aerospace, national defense, 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 individuals carry out those services or that work in compliance with Social Distancing Requirements as defined in this Section to the extent possible.

- C. For purposes of this Order, all first responders, emergency management personnel, emergency dispatchers, court personnel, and law enforcement personnel, United States Armed Forces personnel and activities related thereto, and others working for or to support Essential Businesses are categorically exempt from this Order. Further, nothing in this Order shall prohibit any individual from performing or accessing “Essential Governmental Functions.” Essential Governmental Functions means all services needed to ensure the continuing operation of the government agencies and provide for the health, safety, and welfare of the public. All Essential Governmental Functions shall be performed in compliance with Social Distancing Requirements as defined in this Section, to the extent possible.
- D. For 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.
- E. For purposes of this Order, “Essential Businesses” means:
 - i. Healthcare Operations, Essential Infrastructure, and Essential Governmental Functions;
 - 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 foods, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish and poultry, liquor stores, 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; however, the touching of unpacked baked good is prohibited;
 - iii. Food cultivation, including farming, livestock, and fishing;
 - iv. Human and animal food processing facility workers;
 - v. Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals;
 - vi. Newspapers, television, radio, and other media services;

- vii. Gas stations and auto-supply, auto-repair and servicing, emergency road services, and related facilities;
- viii. Banks and related financial institutions;
- ix. Hardware stores;
- x. Plumbers, electricians, exterminators, construction, cleaning and janitorial staff, security staff, HVAC, painting, moving and relocation services, lawn care and landscaping and other trades and services providers who provide services that are necessary to maintain the safety, sanitation, and essential operation of residences, Essential Activities, and Essential Businesses;
- xi. Businesses providing mailing and shipping services, including post office boxes;
- xii. Educational institutions, which includes public and private K-12 schools, colleges, and universities, for purposes of facilitating distance learning or performing essential functions related to distance learning and support to other essential businesses (such as transportation and law enforcement), provided that social distancing of 6-feet per person is maintained to the greatest extent possible. School buildings may be used if needed to house individuals, distribute food, provide medical care, distance learning or any other services deemed necessary to protect the life and property and other critical resources;
- xiii. Laundromats, dry cleaners, and laundry service providers;
- xiv. Restaurants and other facilities that prepare and serve food and/or beverages, but only for drive thru, delivery, or carry out and not for consumption of food and/or beverages on the premises. 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 takeaway basis only. Schools and other entities that provide food services under this exemption shall not permit food to be eaten at the site where it is provided, or at any other gathering site;
- xv. Businesses that supply products needed for people to work from home;
- xvi. Businesses that supply other Essential Businesses with the support or supplies necessary to operate;
- xvii. Businesses that ship or deliver groceries, food, beverages, goods or services directly to residences;

- xviii. Taxis, aircraft, commercial transportation and logistics providers and services and other transportation providers providing transportation services necessary for Essential Activities and other purposes expressly authorized in this Order;
- xix. Home-based care for seniors, adults, or children;
- xx. Residential facilities and shelters for seniors, adults, and children;
- xxi. Professional services, such as legal services, accounting services, real estate services, and insurance services;
- xxii. Childcare facilities providing services that enable employees exempted from this Order to work as permitted. To the extent possible, childcare facilities must operate under the following mandatory conditions:
 - a. Childcare must be carried out in stable groups of 10 or fewer (“stable” means that the same 10 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 the same facility, each group shall be in separate rooms and groups shall not mix with each other; and
 - d. Children providers shall remain solely with one group of children;
- xxiii. Mortuary, cremation, and burial services;
- xxiv. Hotels and motels, to the extent used for lodging and delivery or carry-out food services;
- xxv. Manufacturing companies, distributors, and supply chain companies producing and supplying essential products and services in and for residences and industries such as pharmaceutical, technology, biotechnology, healthcare, chemicals and sanitation, waste pickup and disposal, agriculture, food and beverage, transportation, aerospace, energy, steel and steel products, petroleum, lubricants and fuel, mining construction, national defense, communications, as well as products and services used by Essential Businesses; and
- xxvi. Leaders and employees of religious institutions.

Section 2. Essential Businesses must take proactive measures to ensure compliance with Social Distancing Requirements, including where possible:

- i. *Designate 6-foot distances.* Designating with signage, tape, or by other means 6-foot spacing for employees and customers in line to maintain appropriate distance;
- ii. *Hand sanitizer and sanitizing products.* Having anti-microbial soap and water or hand sanitizer and sanitizing products readily available for employees and customers;
- iii. *Separate operating hours for vulnerable populations.* Implementing separate operating hours for elderly and vulnerable customers;
- iv. *Online and remote access.* Posting online whether a facility is open and how to best reach the facility and continue services by phone or remotely; and
- v. *Protective equipment.* As supplies are currently available and become available, providing employees who have frequent contact with the public with protective equipment, including but not limited to gloves and masks.

Section 3. All large public gatherings of people in Sedgwick County are prohibited unless otherwise ordered by the Local Health Officer or the Board of County Commissioners, sitting as the Board of Health. Large public gatherings are those with more than ten (10) people in attendance or anticipated to attend, both indoor and outdoor, except for Essential Businesses. A “gathering” does not include normal operations at spaces where persons may be in transit or coming and going individually or in groups of less than ten (10) persons. For all gatherings of people, the Local Health Officer strongly encourages everyone to follow the guidance provided by the CDC, and federal, state and local public health officials and private medical providers.

Section 4. Pursuant to K.S.A. 65-119, Sedgwick County Charter Resolution No. 58, and other legal authority, any sheriff, deputy sheriff or other law enforcement officer of the state or any political subdivision within Sedgwick County, Kansas is hereby ordered to assist in the execution or enforcement of this Order.

Section 5. This Order may be supplemented or modified as required for the effective and efficient management and control of the COVID-19 epidemic in Sedgwick County by further order or direction of the Board of County Commissioners, acting as the Board of Health, or by the Sedgwick County Local Health Officer.

Section 6. This Order is effective at 12:01 A.M. on Wednesday, March 25, 2020, and shall remain in effect for 30 days, until April 23, 2020, unless sooner amended superseded, or rescinded.

Section 7. This Order vacates the Sedgwick County Local Health Officer Order from March 16, 2020, which prohibited public gatherings in excess of fifty (50) attendees.

IT IS SO ORDERED THIS 24th DAY OF MARCH, 2020.

Garold Minns M.D.

Garold Minns
Sedgwick County Local Health Officer, M.D.

A copy of this order shall be published once in the official county newspaper and once in the Wichita Eagle.

EXHIBIT D

STATE OF KANSAS

CAPITOL BUILDING, ROOM 241 SOUTH
TOPEKA, KS 66612



PHONE: (785) 296-3232
GOVERNOR.KANSAS.GOV

GOVERNOR LAURA KELLY

EXECUTIVE ORDER NO. 20-16

Establishing a statewide “stay home” order in conjunction with the Kansas Essential Function Framework for COVID-19 response efforts

WHEREAS, securing the health, safety, and economic well-being of residents of the State of Kansas is this Administration’s top priority;

WHEREAS, Kansas is facing a crisis—the pandemic and public health emergency of COVID-19—resulting in illness, quarantines, school closures, and temporary closure of businesses resulting in lost wages and financial hardship to Kansas citizens;

WHEREAS, the United States Department of Health and Human Services declared a public health emergency for COVID-19 beginning January 27, 2020, with now more than 105,000 cases of the illness and more than 1,700 deaths as a result of the illness across the United States;

WHEREAS, the World Health Organization declared a pandemic on March 11, 2020;

WHEREAS, a State of Disaster Emergency was proclaimed for the State of Kansas on March 12, 2020;

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501 (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5207 (the "Stafford Act");

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared a national emergency that the COVID-19 outbreak in the United States constitutes a national emergency beginning March 1, 2020;

WHEREAS, as of this date, there have been 202 reported positive cases of COVID-19 in Kansas spread among 31 counties;

WHEREAS, in order to mitigate the spread of COVID-19, health officials in several Kansas counties have issued differing “stay home” orders directing citizens to remain in their homes except to conduct essential activities;

WHEREAS, the continued spread of COVID-19 throughout Kansas and the potential for further spread in the days and weeks ahead threatens local health care systems with overload of hospital

beds, personal protective equipment, testing and treatment supplies, and other critical resources for responding to the COVID-19 pandemic;

WHEREAS, in order to create uniformity in the state of Kansas, a state-wide order is necessary;

WHEREAS, consistent exemptions for certain essential functions is critical to the ability of government entities and private enterprises to work together to slow the spread of COVID-19 and mitigate its effects;

WHEREAS, seeking shelter in our homes is shown to be the most effective way to reduce the spread of this infectious disease and Kansas residents will be most safe in their homes;

WHEREAS, where it becomes necessary for local health officials to limit citizens' ability to leave their homes, it remains critical to the COVID-19 pandemic response that a uniform "stay home" order and framework for essential functions exists to secure the safety and protection of the civilian population; and

WHEREAS, in these challenging times this Administration will do whatever it can to avoid immediate dangers to the health, safety, and welfare of Kansans, including providing guidance and support for local authorities who are making difficult and important decisions to protect the health and safety of their populations, as well as certainty to the broader population that essential functions will not be interrupted.

NOW, THEREFORE, pursuant to the authority vested in me as Governor of the State of Kansas, including the authority granted me by K.S.A 48-924 and K.S.A 48-925, in order to slow the spread of COVID-19 I hereby direct and order the following:

1. To preserve the public health and safety for all Kansans, and to ensure the healthcare system is capable of serving all citizens in need, especially those at high risk and vulnerable to COVID-19, all individuals within the state of Kansas are directed to stay in their homes or residences unless performing an essential activity. An activity is essential if the purpose of the activity is one of the following:
 - a. Obtaining food, medicine, and other household necessities;
 - b. Performing, or going to or from work at a business or organization to perform, an essential function as identified in the Kansas Essential Function Framework ("KEFF") as laid out in paragraph 9 below;
 - c. Seeking medical care;
 - d. Caring for children (including daycare or childcare centers), family members, or pets, or caring for a vulnerable person in another location;
 - e. Engaging in an outdoor activity, provided individuals maintain a distance of six feet from one another and abide by the 10-person limitation on gathering size.

- f. Nothing in this order or any other executive order, including Executive Order 20-14, prevents families from gathering privately.
2. Nothing in this order shall restrict, limit, or supersede the Secretary of Health and Environment's authority to make isolation, quarantine, or other orders restricting movement as necessary to respond to escalating or worsening conditions in any local jurisdiction.
3. Nothing in this order shall prohibit the conduct of business, government, or other operations or activities through telework, telecommunications, or other work-from-home capabilities that allow compliance with the requirements of paragraph 1. Travel to and from work to pick up equipment or supplies needed for telework or other work-from-home capabilities is allowed so long as employees and employers follow appropriate safety protocols, including maintaining a six-foot distance between individuals and following other directives regarding social distancing, hygiene, and other efforts to slow the spread of COVID-19
4. This order should be read in conjunction with previous executive orders responding to the COVID-19 pandemic. Any contrary provision in previous executive orders, including Executive Order 20-15 ("Establishing the Kansas Essential Functions Framework for COVID-19 response efforts"), is superseded by this order.
5. While this order is in effect it supersedes all local "stay home" or similar orders prohibiting citizens from leaving their homes in order to slow the spread of COVID-19 and no such order shall continue in force or effect. Any local "stay home" or similar orders currently in effect that expire after the date this order expires or is rescinded may resume in force and effect after this order expires or is rescinded. While this order is in effect no local jurisdiction shall issue or enforce any more or less restrictive "stay home" or similar orders. Local authorities retain any authority to issue or enforce isolation or quarantine orders.
6. KEFF is a framework for identifying and continuing essential functions that must remain operational to maintain critical services and infrastructure during the COVID-19 pandemic.
7. KEFF was developed with reference to United States Department of Homeland Security critical function guidelines established for pandemic and other disaster response efforts.
8. KEFF focuses on four functional areas: *Connect*, *Distribute*, *Manage*, and *Supply*. KEFF organizes each area into a taxonomy so that each function can be easily referenced.
9. The KEFF essential functions listed below are exempt from the prohibitions in this order, subject to the following provisions:
 - a. No individual leaving their home in order perform an activity or function allowed under this order shall be required to carry or present any letter, identification card, or other paper proving that they are allowed to leave their home. Law enforcement officers enforcing this order should use their discretion and consider the totality of the circumstances as they determine appropriate enforcement action.

- b. No prior approval is required for individuals or entities to perform essential functions listed in the KEFF below. Individuals or entities who are uncertain whether they perform functions exempted from the prohibitions of this order may email KEFF@ks.gov to determine whether their functions are deemed essential.
- c. All individuals performing essential functions authorized by this order must—to the extent possible without significant disruption to essential functions—use telework capabilities to avoid meeting in person; and any essential functions being performed on-site or in-person must—to the extent possible without significant disruption to essential functions—follow appropriate safety protocols, including maintaining a six-foot distance between individuals and following other directives regarding social distancing, hygiene, and other efforts to slow the spread of COVID-19.

KEFF 100 CONNECT

- 1. Operate Core Information Technology Networks
- 2. Provide Cable Access Network Services
- 3. Provide Internet Based Content Information and Communication Services
- 4. Provide Internet Routing, Access, and Connection Services
 - a. Cybersecurity & Infrastructure Security Agency
- 5. Provide Positioning, Navigation, and Timing Services
- 6. Provide Radio Broadcast Access Network Services (includes Traditional Television)
- 7. Provide Satellite Access Network Services
- 8. Provide Wireless Access Network Services
- 9. Provide Wireline Access Network Services

KEFF 200 DISTRIBUTE

- 1. Distribute Electricity
- 2. Maintain Supply Chains for Essential Functions and Critical Infrastructure (as defined by DHS)
- 3. Transmit Electricity
- 4. Transport Cargo and Passengers by Air
 - a. Manufacture, distribute, sell, or maintain aircraft or aircraft parts

5. Transport Cargo and Passengers by Rail
 - a. Manufacture, distribute, sell, or maintain trains or train parts
6. Transport Cargo and Passengers by Road
 - a. Operate or maintain gas stations and associated convenience stores and restaurants (but only as allowed in KEFF 400.6.b)
 - b. Deliver mail, packages, food, groceries, beverages, or other cargo (this applies to transportation by air, rail or vessel as well)
 - c. Manufacture, distribute, sell, or maintain automobiles or automobile parts
 - d. Transport farm equipment, supplies, seed, and personnel to farming operations
7. Transport Cargo and Passengers by Vessel
 - a. Manufacture, distribute, sell, or maintain cargo or passenger vessels or parts for such vessels
8. Transport Materials by Pipeline
9. Transport Passengers by Mass Transit

KEFF 300 MANAGE

1. Conduct Elections
2. Operate Media Outlets
3. Develop and Maintain Public Works and Support Services for Essential Functions
4. Educate and Train Essential Functions Personnel
5. Enforce Law
6. Maintain Access to Medical Records
7. Manage Hazardous Materials and Waste
8. Manage Wastewater
9. Operate Government
 - a. Perform government contracts

- b. Operate public and private schools to the extent allowed by other executive orders, including Executive Order 20-07, and under direction of the State Board of Education, the State Department of Education, and Kansas Board of Regents.
 - c. Perform the essential operations of State, county, and municipal governments
 - d. Operate State Constitutional offices
10. Perform Cyber Incident Management Capabilities
11. Prepare for and Manage Emergencies
- a. Manage or operate planning, cleanup, or other emergency responses, including private entities.
12. Preserve Constitutional or Legal Rights
- a. Manufacture or sell firearms, firearm accessories, or ammunition
 - b. Perform or attend religious or faith-based services or activities
 - c. Perform legal services
13. Protect Sensitive Information
14. Provide and Maintain Critical Infrastructure
- a. Construct or repair roads
 - b. Construct, maintain, or clean buildings
 - c. Produce or distribute construction materials
 - d. Maintain specialized manufacturing or industrial equipment
15. Provide Capital Markets and Investment Activities
- a. Perform accounting services
16. Provide Consumer and Commercial Banking Services
17. Provide Funding and Liquidity Services
18. Provide Identity Management and Associated Trust Support Services
19. Provide Insurance Services
20. Provide Medical Care and Services, Including Mortuary Services

- a. Provide pharmaceutical services
- b. Provide funeral or memorial services
- 21. Provide Payment, Clearing and Settlement Services
- 22. Provide Public Safety
- 23. Provide Wholesale Funding
- 24. Store Fuel and Maintain Reserves
- 25. Support Community Health and Mental Health Services
 - a. Operate laundry services

KEFF 400 SUPPLY

- 1. Exploration and Extraction of Fuels
- 2. Fuel Refining and Processing Fuels
 - a. Produce or deliver propane or natural gas
- 3. Generate Electricity
- 4. Manufacture Equipment Used for Essential Functions or Critical Infrastructure (as defined by DHS)
- 5. Produce and Provide Agricultural Products and Services
 - a. Manufacture or maintain agricultural equipment
 - b. Manufacture or distribute agricultural supplies such as seeds and chemicals
 - c. Raise, process, or distribute poultry, livestock, or other animals for human consumption
 - d. Prepare, till, plant, maintain, or harvest grains, fruits, or vegetables
- 6. Produce and Provide Human and Animal Food Products and Services
 - a. Manufacture or process food or food products
 - b. Prepare or serve meals for takeout or delivery
 - c. Sell groceries, including alcoholic beverages (not for on-site consumption)
- 7. Produce Chemicals

8. Provide Metals and Materials
9. Provide Housing
 - a. Operate or maintain rental property
 - b. Operate or maintain student housing
 - c. Operate or maintain long-term care or senior living facilities
 - d. Construct, supply, clean, or maintain single family homes or other housing
 - e. Provide real estate services
 - f. Operate or maintain housing shelters or charities
 - g. Operate or maintain animal shelters
 - h. Operate or maintain hotels or motels
10. Provide Information Technology Products and Services
11. Provide Material and Operational Support to Defense
12. Research and Development
13. Supply Water

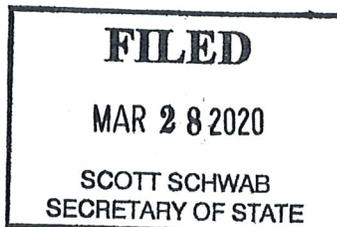
This document shall be filed with the Secretary of State as Executive Order No. 20-16. It shall become effective as of 12:01 a.m. on March 30, 2020 and remain in force until rescinded, until April 19, 2020, or until the statewide State of Disaster Emergency proclaimed on March 12, 2020, relating to COVID-19 expires, whichever is earlier. This order may be extended as circumstances dictate.

THE GOVERNOR'S OFFICE

BY THE GOVERNOR

DATED

Laura Kelly
3.28.2020



Scott Schwab
Secretary of State
Bryan A. Cook
Assistant Secretary of State

EXHIBIT E

STATE OF KANSAS

CAPITOL BUILDING, ROOM 241 SOUTH
TOPEKA, KS 66612



PHONE: (785) 296-3232
GOVERNOR.KANSAS.GOV

GOVERNOR LAURA KELLY

EXECUTIVE ORDER NO. 20-24

Extending Executive Order 20-16 to May 3, 2020,

WHEREAS, securing the health, safety, and economic well-being of residents of the State of Kansas is this Administration's top priority;

WHEREAS, Kansas is facing a crisis—the pandemic and public health emergency of COVID-19—with effects of illness, quarantines, school closures, and temporary closure of businesses resulting in lost wages and financial hardship to Kansas citizens;

WHEREAS, the United States Departments of Health and Human Services declared a public health emergency for COVID-19 beginning January 27, 2020, with more than 579,000 cases of the illness and more than 22,000 deaths as a result of the illness across the United States;

WHEREAS, the World Health Organization declared a pandemic on March 11, 2020;

WHEREAS, a State of Disaster Emergency was proclaimed for the State of Kansas on March 12, 2020;

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501 (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act");

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared a national emergency that the COVID-19 outbreak in the United States constitutes a national emergency beginning March 1, 2020;

WHEREAS, as of this date, there have been over 1,426 positive cases of COVID-19 in Kansas, spread among 62 counties and 69 deaths as a result of the illness;

WHEREAS, the continued spread of COVID-19 throughout Kansas and the potential for further spread in the days and weeks ahead threatens local health care systems with overload of hospital beds, personal protective equipment, testing and treatment supplies, and other critical resources for responding to the COVID-19 pandemic;

WHEREAS, on April 2, 2020 CMS issued the *COVID-19 Long-Term Care Facility Guidance* to all states regarding the recommendations to help mitigate the spread of the 2019 Novel

Coronavirus and to advise states on how to comply with CMS and CDC guidance to keep residents and patients safe and to maintain adequate staff levels;

WHEREAS, on March 28, 2020, in order to mitigate the spread of COVID-19 I issued Executive Order 20-16 (“Establishing a statewide ‘stay home’ order in conjunction with the Kansas Essential Function Framework for COVID-19 response efforts”);

WHEREAS, although significant progress has been made in the fight to slow and prevent spread of COVID-19, the circumstances requiring the establishment of Executive Order 20-16 still exist and Kansas has yet to reach the peak of the COVID-19 pandemic; and

WHEREAS, in these challenging times this Administration will do whatever it can to avoid immediate dangers to the health, safety, and welfare of Kansans, including protecting the health and welfare of residents through appropriate “stay home” orders.

NOW, THEREFORE, pursuant to the authority vested in me as Governor of the State of Kansas, including the authority granted me by K.S.A 48-924 and K.S.A 48-925, in order to slow the spread of COVID-19, I hereby direct and order the following:

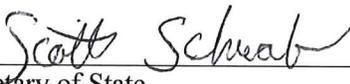
1. Executive Order 20-16 (“Establishing a statewide ‘stay home’ order in conjunction with the Kansas Essential Function Framework for COVID-19 response efforts”) is hereby extended in its entirety and shall be effective until 11:59 p.m. May 3, 2020, or until the statewide State of Disaster Emergency proclaimed on March 12, 2020, relating to COVID-19 expires, whichever is earlier.

This document shall be filed with the Secretary of State as Executive Order No. 20-24. It shall become effective immediately and remain in force until 11:59 p.m. on May 3, 2020, or until the statewide State of Disaster Emergency proclaimed on March 12, 2020, relating to COVID-19 expires, whichever is earlier.

THE GOVERNOR’S OFFICE

BY THE GOVERNOR 

DATED 4-16-2020


Secretary of State


Assistant Secretary of State

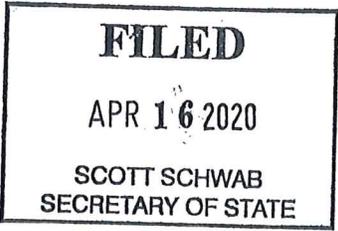


EXHIBIT F

STATE OF DISASTER EMERGENCY PROCLAMATION

Executive Department
State of Kansas
Topeka, Kansas

By the Governor

By virtue of the authority vested in me by the Kansas Emergency Management Act, Chapter 48, Article 9, of the Kansas Statutes Annotated, to meet the inherent dangers of disasters to which the State and its citizens have been exposed, and upon advice of the State Adjutant General as the Director of the Division of Emergency Management, I hereby proclaim a State of Disaster Emergency as follows:

NATURE OF THE DISASTER:

On March 7, 2020, the Department of Health & Environment (KDHE) Secretary confirmed the first case of novel coronavirus (COVID-19) in the state of Kansas, and considers that a public health emergency exists within the state of Kansas.

The World Health Organization (WHO) declared a global pandemic on March 11, 2020. On March 12, 2020, Governor Laura Kelly directed activation of the Kansas Response Plan and the utilization of all available resources of the state government and each political subdivision as reasonably necessary to cope with the disaster; and to perform and exercise such other functions, powers and duties as are necessary to promote and secure the safety and protection of all populations.

On March 13, 2020, President Donald Trump proclaimed that the COVID-19 outbreak in the United States constitutes a national emergency beginning March 1, 2020. On March 20, 2020, the president granted the State of Kansas an Emergency Declaration and directed the Department of Homeland Security, Federal Emergency Management Agency (FEMA), to provide appropriate assistance for required emergency measures to save lives and to protect property and public health and safety, and lessen or avert the threat of a catastrophe in the state.

On March 29, 2020, President Trump declared that a major disaster exists in the State of Kansas based on COVID-19, beginning on January 20, 2020, and continuing.

As of April 29, 2020, the total number of positive COVID-19 cases is 3,738 in seventy-eight counties with a total of 125 deaths statewide.

DATE THAT DISASTER AFFECTED THE AREA:

March 12, 2020 and continuing

AREA AFFECTED BY THE DISASTER:

All 105 counties in Kansas; Iowa Tribe of Kansas and Nebraska; Kickapoo Tribe of Kansas; Prairie Band of Potawatomi Nation; and Sac and Fox Nation of the Missouri in Kansas and Nebraska.

I hereby proclaim, direct and order the Adjutant General of the State of Kansas to activate the disaster response and recovery portions of the Kansas Response Plan. The Adjutant General shall coordinate local and inter-jurisdictional disaster plans applicable to the political subdivisions of areas affected by this Proclamation.

Any or all of the powers conferred upon the Governor by the Kansas Emergency Management Act may be delegated to the Adjutant General as deemed appropriate during this period of proclaimed State of Disaster Emergency. This may be delegated by written orders, or oral orders subsequently reduced to writing with reference to this Proclamation.

I hereby suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the order or rules and regulations of any state agency which implements such statute, if strict compliance with the

provisions of such statutes, order or rule and regulation would prevent, hinder, or delay in any way necessary action in coping with the disaster as set forth in KSA 48-925(c)(1).

This Proclamation shall be filed promptly with the Division of Emergency Management, the Office of the Secretary of State and each city clerk or county clerk, as appropriate, in the area to which this Proclamation applies. Further dissemination of this Proclamation shall occur by means calculated to bring its contents to the attention of the general public.

DONE At the Capitol in
Topeka Under the Great Seal of
the State this 30th, day of April
A.D., 2020

THE GOVERNOR: 

Secretary of State

Assistant Secretary of State

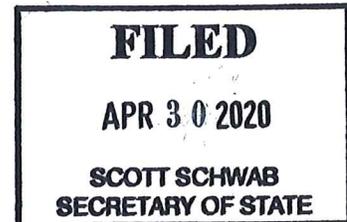


EXHIBIT G

STATE OF KANSAS

CAPITOL BUILDING, ROOM 241 SOUTH
TOPEKA, KS 66612



PHONE: (785) 296-3232
GOVERNOR.KANSAS.GOV

GOVERNOR LAURA KELLY

EXECUTIVE ORDER NO. 20-29

Implementing Phase One of "Ad Astra: A Plan to Reopen KANSAS"

WHEREAS, securing the health, safety, and economic well-being of residents of the State of Kansas is this Administration's top priority;

WHEREAS, Kansas is facing a crisis-the pandemic and public health emergency of COVID-19-resulting in illness, quarantines, school closures, and temporary closure of businesses resulting in lost wages and financial hardship to Kansas citizens;

WHEREAS, the United States Departments of Health and Human Services declared a public health emergency for COVID-19 beginning January 27, 2020, with now more than 1,005,000 cases of the illness and more than 57,000 deaths as a result of the illness across the United States;

WHEREAS, the World Health Organization declared a pandemic on March 11, 2020;

WHEREAS, a State of Disaster Emergency was proclaimed for the State of Kansas on March 12, 2020;

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501 (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act");

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared a national emergency that the COVID-19 outbreak in the United States constitutes a national emergency beginning March 1, 2020;

WHEREAS, as of this date, in Kansas there have been 4,238 reported positive cases of COVID-19 spread among 80 counties, including 129 deaths;

WHEREAS, in order to mitigate the spread of COVID-19, Executive Order 20-15 established the Kansas Essential Function Framework (KEFF).

WHEREAS, in order to mitigate the spread of COVID-19, Executive Order 20-16 established a statewide "stay home" order in conjunction with the Kansas Essential Function Framework;

WHEREAS, in order to mitigate the spread of COVID-19, Executive Order 20-25 prohibited mass

gatherings of more than 10 individuals subject to certain exceptions;

WHEREAS, the State of Kansas must remain flexible to account for the evolving nature and scope of the unprecedented public health emergency posed by COVID-19, while also simultaneously beginning the process of safely, strategically, and incrementally reopening business and facilitating economic recovery and revitalization;

WHEREAS, for the aforementioned and other reasons, and in recognition and furtherance of my responsibility to provide for and ensure the health, safety, security, and welfare of the people of the State of Kansas, I have determined that the evolving public health and economic threats posed by COVID-19 require a proactive approach to both incrementally re-opening businesses and activities while still mitigating the further spread of COVID-19;

WHEREAS, I have announced that Kansas will follow “Ad Astra: A Plan to Reopen KANSAS” to re-open businesses and activities in phases as appropriate after considering key health metrics and other data regarding readiness, risk of resurgence, and threats to the most vulnerable; and

WHEREAS, in these challenging times, this Administration will do whatever it can to avoid immediate dangers to the health, safety, and welfare of Kansans, including providing guidance and support for local authorities who are making difficult and important decisions to protect the health and safety of their populations.

NOW, THEREFORE, pursuant to the authority vested in me as Governor of the State of Kansas, including the authority granted me by K.S.A 48-924 and K.S.A 48-925, in order to begin the process of safely, strategically, and incrementally reopening businesses and facilitating the economic recovery of Kansas while still mitigating the spread of COVID-19, I hereby direct and order the following during Phase One of “Ad Astra: A Plan to Reopen KANSAS”:

1. Executive Orders 20-16 (statewide stay-home order), 20-24 (extending statewide stay-home order), and 20-25 (mass gatherings) are no longer in effect.
2. Mass Gatherings:
 - a. Mass gatherings of more than 10 individuals are prohibited.
 - i. Mass gatherings are defined as instances in which individuals are in one location and are unable to maintain a 6-foot distance between individuals (not including individuals who reside together) with only infrequent or incidental moments of closer proximity.
3. Guidance for Individuals: Individuals are strongly encouraged to follow guidance attached to this order.
4. Guidance for Employers/Businesses: Employers and businesses are strongly encouraged to follow guidance attached to this order.

5. Business Restrictions:

- a. All businesses not prohibited below can open if they comply with the following:
 - i. Maintain at least 6 feet of distance between customers or groups of customers;
 1. Restaurants or dining establishments may meet this requirement by using physical barriers sufficient to prevent virus spread between seated customers or groups of seated customers;
 - ii. Follow fundamental cleaning and public health practices detailed on [covid.ks.gov](https://www.covid.ks.gov); and
 - iii. Avoid any instances in which groups of more than 10 individuals are in one location and unable to maintain a 6-foot distance with only infrequent or incidental moments of closer proximity. This does not limit the total occupancy of a business, but requires that businesses limit mass gatherings in areas and instances in which physical distancing cannot be maintained, such as at tables or in entrances, lobbies, break rooms, check-out areas, etc.
- b. All businesses in operation should follow industry-specific guidelines as provided on [covid.ks.gov](https://www.covid.ks.gov). Following any additional best practices guidance from each business sector is strongly encouraged.
- c. The following, unless they are repurposed for use in an essential function under the KEFF as determined under the provisions of paragraph 7 below, shall be closed to the public:
 - i. Bars and night clubs, excluding already operating curbside and carryout services;
 - ii. Casinos (non-tribal)
 - iii. Theaters, museums, and other indoor leisure spaces (trampoline parks, arcades, etc.)
 - iv. Fitness centers and gyms;
 - v. Nail salons, barber shops, hair salons, tanning salons, tattoo parlors and other personal service businesses where close contact cannot be avoided;

6. Education, Activities, and Venue Restrictions:

- a. Educational Facilities:
 - i. K-12 facilities remain subject to the provisions of EO 20-07 regarding school closures, including the requirement that fewer than 10 students,

instructors, or staff be present for normal operations. K-12 facilities should continue to follow the guidelines of the Continuous Learning Plan developed by the Kansas State Department of Education. Districts with facilities in more than one county or city should follow any applicable directives issued by the county and city in which their district office is located.

- ii. Higher education facilities that are closed before May 4th should remain closed for in-person learning or events involving groups of more than 10 individuals present at a time.
 - iii. Licensed childcare facilities may continue operations pursuant to state and local regulations.
- b. All activities and venues not prohibited in subparagraph 6.c below can open if they comply with the following:
- i. Maintain at least 6 feet of distance between individuals or groups (not including individuals who reside together);
 - ii. Follow fundamental cleaning and public health practices (compliance with any additional sector-specific best practices guidance is strongly encouraged); and
 - iii. Avoid any instances in which groups of more than 10 individuals are in one location and are unable to maintain a 6-foot distance with only infrequent or incidental moments of closer proximity. This does not limit the total occupancy of a facility, but requires that facilities limit mass gatherings in areas and instances in which physical distancing cannot be maintained such as in entrances, lobbies, locker rooms, etc.
- c. The following, unless they are repurposed for use in an essential function under the KEFF as determined under the provisions of paragraph 7 below, shall remain closed to the public:
- i. Community centers;
 - ii. Outdoor and indoor large entertainment venues with capacity of 2,000 or more;
 - iii. Fairs, festivals, carnivals, parades, commencements, and graduations;
 - iv. Swimming pools (other than backyard pools);
 - v. Organized sports facilities and tournaments; and
 - vi. Summer camps.

7. Essential Functions:

- a. While local governments may implement more restrictive orders or provisions regarding businesses, mass gatherings, or stay-home requirements, local governments must continue to allow the performance of essential functions identified in the Kansas Essential Functions Framework. However, such local orders or provisions may affect or regulate essential functions only so long as they do not significantly disrupt performance of the essential function. The applicable list of essential functions was outlined in Executive Order 20-16 prior to its expiration; while the substantive provisions of that order no longer apply, the KEFF functions listed in Executive Order 20-16 are the essential functions local governments must continue to allow.
 - b. During the re-opening phases, whether an individual or organization performs an essential function under the KEFF is a decision left to local governments, but any individual or business with previous confirmation from the State that it performs essential functions under Executive Order 20-16 (prior to its expiration) will continue to have those functions deemed essential.
8. Nothing in this order shall restrict, limit, or supersede the Secretary of Health and Environment's authority to make isolation, quarantine, or other orders restricting movement as necessary to respond to escalating or worsening conditions in any local jurisdiction.
 9. Local governments retain authority to issue and enforce equally or more restrictive orders or provisions and retain any authority to issue or enforce isolation or quarantine orders or other orders restricting movement as necessary to respond to escalating or worsening conditions in any local jurisdiction.
 10. As currently permitted pursuant to state law, law enforcement officers enforcing this order should use their discretion, consult with their legal counsel, and consider the totality of the circumstances as they determine appropriate enforcement actions.
 11. In order to more accurately track and assess statewide status of COVID-19 cases, private labs conducting testing for COVID-19 shall report both positive and negative tests to the Kansas Department of Health and Environment.
 12. The Four Tribes of Kansas (Iowa Tribe, Kickapoo Nation, Prairie Band Potawatomie Nation, and Sac & Fox Nation) retain any authority to regulate through their respective tribal councils for the health and welfare of their population.
 13. This order should be read in conjunction with other executive orders responding to the COVID-19 pandemic that are still in effect and supersedes any contrary provisions of previous orders.

This document shall be filed with the Secretary of State as Executive Order No. 20-29. It shall become effective as of 12:00 a.m. on May 4, 2020, and remain in force until rescinded or until the statewide State of Disaster Emergency proclaimed on April 30, 2020, relating to COVID-19 expires, whichever is earlier. This order may be extended or modified as circumstances dictate.

THE GOVERNOR'S OFFICE

BY THE GOVERNOR

Laura Cell

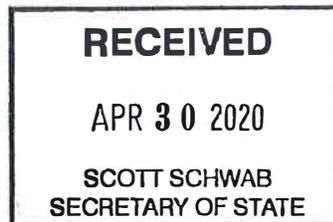
DATED

4.30.2020

Scott Schwab

Secretary of State

Assistant Secretary of State



Guidance for Individuals and Employers/Businesses

1. Guidance for Individuals:

- a. Individuals are strongly encouraged to wear cloth masks in public settings as appropriate and especially when using mass transit. Employees should follow industry-specific guidance on mask use in workplaces.
- b. When in public (e.g. parks, outdoor recreation areas, shopping areas) all individuals (not including individuals who reside together) should maintain a 6-foot distance from others with only infrequent or incidental moments of closer proximity.
- c. Avoid socializing in person with groups of more than 10 individuals in both indoor and outdoor settings, especially in circumstances that do not allow for a physical distance of 6-feet or more between individuals or groups with only infrequent or incidental moments of closer proximity (e.g., receptions, trade shows).
- d. All high-risk or vulnerable individuals should continue to stay home except for essential needs.
- e. Minimize or eliminate non-essential travel and adhere to CDC and KDHE guidelines regarding isolation or quarantine following travel to high-risk areas. Essential travel includes travel for urgent family, medical, and business-related needs as determined by the individual or business.

2. Guidance for Employers/Businesses:

- a. Continue to strongly encourage telework for all employees when possible.
- b. Avoid gatherings of employees in groups of more than 10 individuals where 6-foot distances between individuals cannot be maintained except for infrequent or incidental moments of closer proximity.
- c. Gradually phase in employees on-site as possible while maintaining 6 feet between employee workstations.
- d. Any employees exhibiting symptoms should be required to stay at home and asked to call their health care provider.
- e. Minimize or eliminate non-essential travel and adhere to CDC and KDHE guidelines regarding isolation or quarantine following travel to high-risk areas. Essential travel includes travel for urgent family, medical, and business-related needs as determined by the individual or business.
- f. Strongly consider special accommodations for personnel who are members of a vulnerable population.

EXHIBIT H



GOVERNOR LAURA KELLY

EXECUTIVE ORDER NO. 20-31

Implementing Phase 1.5 of “Ad Astra: A Plan to Reopen KANSAS”

WHEREAS, securing the health, safety, and economic well-being of residents of the State of Kansas is this Administration's top priority;

WHEREAS, Kansas is facing a crisis-the pandemic and public health emergency of COVID-19-resulting in illness, quarantines, school closures, and temporary closure of businesses resulting in lost wages and financial hardship to Kansas citizens;

WHEREAS, the United States Departments of Health and Human Services declared a public health emergency for COVID-19 beginning January 27, 2020, with now more than 1,364,000 cases of the illness and more than 82,000 deaths as a result of the illness across the United States;

WHEREAS, the World Health Organization declared a pandemic on March 11, 2020;

WHEREAS, a State of Disaster Emergency was proclaimed for the State of Kansas on March 12, 2020;

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501 (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act");

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared a national emergency that the COVID-19 outbreak in the United States constitutes a national emergency beginning March 1, 2020;

WHEREAS, as of this date, in Kansas there have been 7,468 reported positive cases of COVID-19 spread among 84 counties, including 164 deaths;

WHEREAS, in order to mitigate the spread of COVID-19, Executive Order 20-15 established the Kansas Essential Function Framework (KEFF).

WHEREAS, in order to mitigate the spread of COVID-19, Executive Order 20-16 established a statewide “stay home” order in conjunction with the Kansas Essential Function Framework;

WHEREAS, in order to mitigate the spread of COVID-19, Executive Order 20-25 prohibited mass

gatherings of more than 10 individuals subject to certain exceptions;

WHEREAS, the State of Kansas must remain flexible to account for the evolving nature and scope of the unprecedented public health emergency posed by COVID-19, while also simultaneously beginning the process of safely, strategically, and incrementally reopening business and facilitating economic recovery and revitalization;

WHEREAS, for the aforementioned and other reasons, and in recognition and furtherance of my responsibility to provide for and ensure the health, safety, security, and welfare of the people of the State of Kansas, I have determined that the evolving public health and economic threats posed by COVID-19 require a proactive approach to both incrementally re-opening businesses and activities while still mitigating the further spread of COVID-19;

WHEREAS, I have announced that Kansas will follow “Ad Astra: A Plan to Reopen KANSAS” to re-open businesses and activities in phases as appropriate after considering key health metrics and other data regarding readiness, risk of resurgence, and threats to the most vulnerable;

WHEREAS, the public health metrics identified in “Ad Astra: A Plan to Reopen Kansas”—disease spread, hospital admissions, and deaths as a result of COVID-19—indicate that Kansas is not ready to move to Phase Two; and

WHEREAS, in these challenging times, this Administration will do whatever it can to avoid immediate dangers to the health, safety, and welfare of Kansans, including providing guidance and support for local authorities who are making difficult and important decisions to protect the health and safety of their populations.

NOW, THEREFORE, pursuant to the authority vested in me as Governor of the State of Kansas, including the authority granted me by K.S.A 48-924 and K.S.A 48-925, in order to begin the process of safely, strategically, and incrementally reopening businesses and facilitating the economic recovery of Kansas while still mitigating the spread of COVID-19, I hereby direct and order the following during Phase One of “Ad Astra: A Plan to Reopen KANSAS”:

1. Executive Order 20-29 (Ad Astra Phase One) is rescinded and replaced by this order.
2. Mass Gatherings:
 - a. Mass gatherings of more than 10 individuals are prohibited.
 - i. Mass gatherings are defined as instances in which individuals are in one location and are unable to maintain a 6-foot distance between individuals (not including individuals who reside together) with only infrequent or incidental moments of closer proximity.
3. Guidance for Individuals: Individuals are strongly encouraged to follow guidance attached to this order.

4. Guidance for Employers/Businesses: Employers and businesses are strongly encouraged to follow guidance attached to this order.

5. Business Restrictions:

a. All businesses not addressed in subparagraph 5.c. or prohibited in subparagraph 5.d. below can open if they comply with the following:

i. Maintain at least 6 feet of distance between customers or groups of customers;

1. Restaurants or dining establishments may meet this requirement by using physical barriers sufficient to prevent virus spread between seated customers or groups of seated customers;

ii. Follow fundamental cleaning and public health practices detailed on [covid.ks.gov](https://www.covid.ks.gov); and

iii. Avoid any instances in which groups of more than 10 individuals are in one location and unable to maintain a 6-foot distance with only infrequent or incidental moments of closer proximity. This does not limit the total occupancy of a business, but requires that businesses limit mass gatherings in areas and instances in which physical distancing cannot be maintained, such as at tables or in entrances, lobbies, break rooms, check-out areas, etc.

b. All businesses in operation should follow industry-specific guidelines as provided on [covid.ks.gov](https://www.covid.ks.gov). Following any additional best practices guidance from each business sector is strongly encouraged.

c. The following businesses may open if they comply in all areas of the business with the requirements of paragraph 5.a. of this order but only to the extent described in this subparagraph:

i. Nail salons, barber shops, hair salons, tanning salons, tattoo parlors and other personal service businesses where close contact cannot be avoided may open, but only for pre-scheduled appointments or online check-in.

ii. Fitness centers and health clubs may open, but in-person group classes may not occur and locker rooms must be closed except as necessary to use restroom facilities.

d. The following, unless they are repurposed for use in an essential function under the KEFF as determined under the provisions of paragraph 7 below, shall be closed to the public:

i. Bars and night clubs, excluding already operating curbside and carryout services.

- ii. Casinos (non-tribal)
- iii. Theaters, museums, and other indoor leisure spaces (trampoline parks, arcades, etc.)

6. Education, Activities, and Venue Restrictions:

a. Educational Facilities:

- i. K-12 facilities remain subject to the provisions of EO 20-07 regarding school closures, including the requirement that fewer than 10 students, instructors, or staff be present for normal operations. K-12 facilities should continue to follow the guidelines of the Continuous Learning Plan developed by the Kansas State Department of Education. Districts with facilities in more than one county or city should follow any applicable directives issued by the county and city in which their district office is located.
- ii. Higher education facilities that are closed before May 18th should remain closed for in-person learning or events involving groups of more than 10 individuals present at a time.
- iii. Licensed childcare facilities may continue operations pursuant to state and local regulations.

b. All activities and venues not addressed in subparagraph 6.c. or prohibited in subparagraph 6.d. below can open if they comply with the following:

- i. Maintain at least 6 feet of distance between individuals or groups (not including individuals who reside together);
- ii. Follow fundamental cleaning and public health practices (compliance with any additional sector-specific best practices guidance is strongly encouraged); and
- iii. Avoid any instances in which groups of more than 10 individuals are in one location and are unable to maintain a 6-foot distance with only infrequent or incidental moments of closer proximity. This does not limit the total occupancy of a facility, but requires that facilities limit mass gatherings in areas and instances in which physical distancing cannot be maintained such as in entrances, lobbies, locker rooms, etc.

c. The following activities or venues may open but only to the extent described in this subparagraph:

- i. In-person commencement or graduation ceremonies may occur with no more than 10 individuals in a room, gymnasium, or facility at one time and only if those 10 individuals maintain a 6-foot distance between individuals

(not including individuals who reside together) with only infrequent or incidental moments of closer proximity. Outdoor drive-through graduation ceremonies during which no more than 10 individuals are in the same area outside of their vehicles at a time (i.e. school administration, graduate, family members, etc.) are allowed. Individuals who remain within an enclosed motor vehicle do not count toward the maximum number of attendees allowed in the same area.

- d. The following, unless they are repurposed for use in an essential function under the KEFF as determined under the provisions of paragraph 7 below, shall remain closed to the public:
 - i. Community centers;
 - ii. Outdoor and indoor large entertainment venues with capacity of 2,000 or more;
 - iii. Fairs, festivals, carnivals, parades;
 - iv. Swimming pools (other than backyard pools);
 - v. Organized sports facilities, sports tournaments, sports games, and sports practices (meaning no team practices, regardless of location); and
 - vi. Summer camps.

7. Essential Functions:

- a. While local governments may implement more restrictive orders or provisions regarding businesses, mass gatherings, or stay-home requirements, local governments must continue to allow the performance of essential functions identified in the Kansas Essential Functions Framework. However, such local orders or provisions may affect or regulate essential functions only so long as they do not significantly disrupt performance of the essential function. The applicable list of essential functions was outlined in Executive Order 20-16 prior to its expiration; while the substantive provisions of that order no longer apply, the KEFF functions listed in Executive Order 20-16 are the essential functions local governments must continue to allow.
 - b. During the re-opening phases, whether an individual or organization performs an essential function under the KEFF is a decision left to local governments, but any individual or business with previous confirmation from the State that it performs essential functions under Executive Order 20-16 (prior to its expiration) will continue to have those functions deemed essential.
8. If any business, facility, or venue involves or operates more than one activity or function, each activity or function must follow any provisions of this order specifically addressing that activity or function. For example, a community center that includes a fitness center, a

pool, and an event space may open the fitness center but may not open the pool or event space (regardless of capacity).

9. Nothing in this order shall restrict, limit, or supersede the Secretary of Health and Environment's authority to make isolation, quarantine, or other orders restricting movement as necessary to respond to escalating or worsening conditions in any local jurisdiction.
10. Local governments retain authority to issue and enforce equally or more restrictive orders or provisions and retain any authority to issue or enforce isolation or quarantine orders or other orders restricting movement as necessary to respond to escalating or worsening conditions in any local jurisdiction.
11. As currently permitted pursuant to state law, law enforcement officers enforcing this order should use their discretion, consult with their legal counsel, and consider the totality of the circumstances as they determine appropriate enforcement actions.
12. In order to more accurately track and assess statewide status of COVID-19 cases, private labs conducting testing for COVID-19 shall report both positive and negative tests to the Kansas Department of Health and Environment.
13. The Four Tribes of Kansas (Iowa Tribe, Kickapoo Nation, Prairie Band Potawatomie Nation, and Sac & Fox Nation) retain any authority to regulate through their respective tribal councils for the health and welfare of their population.
14. This order should be read in conjunction with other executive orders responding to the COVID-19 pandemic that are still in effect and supersedes any contrary provisions of previous orders.

This document shall be filed with the Secretary of State as Executive Order No. 20-31. It shall become effective as of 12:00 a.m. on May 18, 2020, and remain in force until rescinded or until the statewide State of Disaster Emergency proclaimed on April 30, 2020, relating to COVID-19 expires, whichever is earlier. This order may be extended or modified as circumstances dictate.

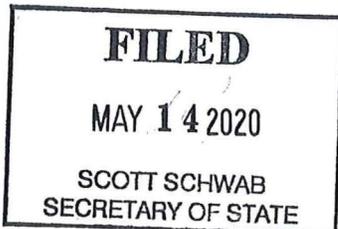
THE GOVERNOR'S OFFICE

BY THE GOVERNOR



DATED

5.14.2020



Scott Schwab
Secretary of State

Bryan A. Cook
Assistant Secretary of State

Guidance for Individuals and Employers/Businesses

1. Guidance for Individuals:

- a. Individuals are strongly encouraged to wear cloth masks in public settings as appropriate and especially when using mass transit. Employees should follow industry-specific guidance on mask use in workplaces.
- b. When in public (e.g. parks, outdoor recreation areas, shopping areas) all individuals (not including individuals who reside together) should maintain a 6-foot distance from others with only infrequent or incidental moments of closer proximity.
- c. Avoid socializing in person with groups of more than 10 individuals in both indoor and outdoor settings, especially in circumstances that do not allow for a physical distance of 6-feet or more between individuals or groups with only infrequent or incidental moments of closer proximity (e.g., receptions, trade shows).
- d. All high-risk or vulnerable individuals should continue to stay home except for essential needs.
- e. Minimize or eliminate non-essential travel and adhere to CDC and KDHE guidelines regarding isolation or quarantine following travel to high-risk areas. Essential travel includes travel for urgent family, medical, and business-related needs as determined by the individual or business.

2. Guidance for Employers/Businesses:

- a. Continue to strongly encourage telework for all employees when possible.
- b. Avoid gatherings of employees in groups of more than 10 individuals where 6-foot distances between individuals cannot be maintained except for infrequent or incidental moments of closer proximity.
- c. Gradually phase in employees on-site as possible while maintaining 6 feet between employee workstations.
- d. Any employees exhibiting symptoms should be required to stay at home and asked to call their health care provider.
- e. Minimize or eliminate non-essential travel and adhere to CDC and KDHE guidelines regarding isolation or quarantine following travel to high-risk areas. Essential travel includes travel for urgent family, medical, and business-related needs as determined by the individual or business.
- f. Strongly consider special accommodations for personnel who are members of a vulnerable population.

EXHIBIT I

STATE OF KANSAS

CAPITOL BUILDING, ROOM 241 SOUTH
TOPEKA, KS 66612



PHONE: (785) 296-3232
GOVERNOR.KANSAS.GOV

GOVERNOR LAURA KELLY

EXECUTIVE ORDER NO. 20-34

Implementing Phase 2 of "Ad Astra: A Plan to Reopen KANSAS"

WHEREAS, securing the health, safety, and economic well-being of residents of the State of Kansas is this Administration's top priority;

WHEREAS, Kansas is facing a crisis-the pandemic and public health emergency of COVID-19-resulting in illness, quarantines, school closures, and temporary closure of businesses resulting in lost wages and financial hardship to Kansas citizens;

WHEREAS, the United States Departments of Health and Human Services declared a public health emergency for COVID-19 beginning January 27, 2020, with now more than 1,480,000 cases of the illness and more than 89,000 deaths as a result of the illness across the United States;

WHEREAS, the World Health Organization declared a pandemic on March 11, 2020;

WHEREAS, a State of Disaster Emergency was proclaimed for the State of Kansas on March 12, 2020;

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act");

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared a national emergency that the COVID-19 outbreak in the United States constitutes a national emergency beginning March 1, 2020;

WHEREAS, as of this date, in Kansas there have been 8,340 reported positive cases of COVID-19 spread among 84 counties, including 173 deaths;

WHEREAS, in order to mitigate the spread of COVID-19, Executive Order 20-15 established the Kansas Essential Function Framework (KEFF).

WHEREAS, in order to mitigate the spread of COVID-19, Executive Order 20-16 established a statewide "stay home" order in conjunction with the Kansas Essential Function Framework;

WHEREAS, the State of Kansas must remain flexible to account for the evolving nature and scope of the unprecedented public health emergency posed by COVID-19, while also simultaneously beginning the process of safely, strategically, and incrementally reopening business and facilitating economic recovery and revitalization;

WHEREAS, for the aforementioned and other reasons, and in recognition and furtherance of my responsibility to provide for and ensure the health, safety, security, and welfare of the people of the State of Kansas, I have determined that the evolving public health and economic threats posed by COVID-19 require a proactive approach to both incrementally re-opening businesses and activities while still mitigating the further spread of COVID-19;

WHEREAS, I have announced that Kansas will follow “Ad Astra: A Plan to Reopen KANSAS” to re-open businesses and activities in phases as appropriate after considering key health metrics and other data regarding readiness, risk of resurgence, and threats to the most vulnerable;

WHEREAS, the public health metrics identified in “Ad Astra: A Plan to Reopen Kansas”—disease spread, hospital admissions, and deaths as a result of COVID-19—indicate that Kansas is now ready to move to Phase Two, with some modifications; and

WHEREAS, in these challenging times, this Administration will do whatever it can to avoid immediate dangers to the health, safety, and welfare of Kansans, including providing guidance and support for local authorities who are making difficult and important decisions to protect the health and safety of their populations.

NOW, THEREFORE, pursuant to the authority vested in me as Governor of the State of Kansas, including the authority granted me by K.S.A 48-924 and K.S.A 48-925, in order to begin the process of safely, strategically, and incrementally reopening businesses and facilitating the economic recovery of Kansas while still mitigating the spread of COVID-19, I hereby direct and order the following during Phase Two of “Ad Astra: A Plan to Reopen KANSAS”:

1. Executive Order 20-31 (Ad Astra Phase 1.5) is rescinded and replaced by this order.
2. Mass Gatherings:
 - a. Mass gatherings of more than 15 individuals are prohibited.
 - i. Mass gatherings are defined as instances in which individuals are in one location and are unable to maintain a 6-foot distance between individuals (not including individuals who reside together) with only infrequent or incidental moments of closer proximity.
3. Guidance for Individuals: Individuals are strongly encouraged to follow guidance attached to this order.
4. Guidance for Employers/Businesses: Employers and businesses are strongly encouraged

to follow guidance attached to this order.

5. Business Restrictions:

- a. All businesses not addressed in subparagraph 5.c. or prohibited in subparagraph 5.d. below can open if they comply with the following:
 - i. Maintain at least 6 feet of distance between customers or groups of customers;
 1. Restaurants or dining establishments may meet this requirement by using physical barriers sufficient to prevent virus spread between seated customers or groups of seated customers;
 - ii. Follow fundamental cleaning and public health practices detailed on [covid.ks.gov](https://www.covid.ks.gov); and
 - iii. Avoid any instances in which groups of more than 15 individuals are in one location and unable to maintain a 6-foot distance with only infrequent or incidental moments of closer proximity. This does not limit the total occupancy of a business, but requires that businesses limit mass gatherings in areas and instances in which physical distancing cannot be maintained, such as at tables or in entrances, lobbies, break rooms, check-out areas, etc.
- b. All businesses in operation should follow industry-specific guidelines as provided on [covid.ks.gov](https://www.covid.ks.gov). Following any additional best practices guidance from each business sector is strongly encouraged.
- c. The following businesses may open if they comply in all areas of the business with the requirements of paragraph 5.a. of this order but only to the extent described in this subparagraph:
 - i. Nail salons, barber shops, hair salons, tanning salons, tattoo parlors and other personal service businesses where close contact cannot be avoided may open, but only for pre-scheduled appointments or online check-in.
 - ii. Fitness centers and health clubs may open, including in-person group classes if they comply with the restrictions of paragraph 5.a., but locker rooms must be closed except as necessary to use restroom facilities.
 - iii. State-owned-and-operated casinos may open if they comply with a re-opening plan approved by the Department of Health and Environment.
- d. The following, unless they are repurposed for use in an essential function under the KEFF as determined under the provisions of paragraph 7 below, shall be closed to the public:
 - i. Bars and night clubs, excluding already operating curbside and carryout

services.

6. Education, Activities, and Venue Restrictions:

a. Educational Facilities:

- i. K-12 facilities remain subject to the provisions of EO 20-07 regarding school closures, except that no more than 15 students, instructors, or staff may be present for normal operations. K-12 facilities should continue to follow the guidelines of the Continuous Learning Plan developed by the Kansas State Department of Education. Districts with facilities in more than one county or city should follow any applicable directives issued by the county and city in which their district office is located.
- ii. Higher education facilities that are closed before May 18th should remain closed for in-person learning or events involving groups of more than 15 individuals present at a time.
- iii. Licensed childcare facilities may continue operations pursuant to state and local regulations.

b. All activities and venues not addressed in subparagraph 6.c. or prohibited in subparagraph 6.d. below can open if they comply with the following:

- i. Maintain at least 6 feet of distance between individuals or groups (not including individuals who reside together);
- ii. Follow fundamental cleaning and public health practices (compliance with any additional sector-specific best practices guidance is strongly encouraged); and
- iii. Avoid any instances in which groups of more than 15 individuals are in one location and are unable to maintain a 6-foot distance with only infrequent or incidental moments of closer proximity. This does not limit the total occupancy of a facility, but requires that facilities limit mass gatherings in areas and instances in which physical distancing cannot be maintained such as in entrances, lobbies, locker rooms, etc.

c. The following activities or venues may open but only to the extent described in this subparagraph:

- i. In-person commencement or graduation ceremonies may occur with no more than 15 individuals in a room, gymnasium, or facility at one time and only if those 15 individuals maintain a 6-foot distance between individuals (not including individuals who reside together) with only infrequent or incidental moments of closer proximity. Outdoor drive-through graduation ceremonies during which no more than 15 individuals are in the same area outside of their vehicles at a time (i.e. school administration, graduate,

family members, etc.) are allowed. Individuals who remain within an enclosed motor vehicle do not count toward the maximum number of attendees allowed in the same area.

- ii. Community centers may open if they comply with the requirements of paragraph 6.b., except that indoor or outdoor swimming pools must remain closed.
 - iii. Recreational, youth, or other non-professional organized sports facilities, sports tournaments, sports games, and sports practices may open or occur if they follow guidelines established by the Department of Health and Environment in consultation with the Kansas Recreation & Park Association and posted on [covid.ks.gov](https://www.covid.ks.gov).
- d. The following, unless they are repurposed for use in an essential function under the KEFF as determined under the provisions of paragraph 7 below, shall remain closed to the public:
- i. Outdoor and indoor large entertainment venues with capacity of 2,000 or more;
 - ii. Fairs, festivals, carnivals, parades;
 - iii. Swimming pools (other than single-family backyard pools or pools being used for physical therapy or first responder training); and
 - iv. Summer camps.

7. Essential Functions:

- a. While local governments may implement more restrictive orders or provisions regarding businesses, mass gatherings, or stay-home requirements, local governments must continue to allow the performance of essential functions identified in the Kansas Essential Functions Framework. However, such local orders or provisions may affect or regulate essential functions only so long as they do not significantly disrupt performance of the essential function. The applicable list of essential functions was outlined in Executive Order 20-16 prior to its expiration; while the substantive provisions of that order no longer apply, the KEFF functions listed in Executive Order 20-16 are the essential functions local governments must continue to allow.
- b. During the re-opening phases, whether an individual or organization performs an essential function under the KEFF is a decision left to local governments, but any individual or business with previous confirmation from the State that it performs essential functions under Executive Order 20-16 (prior to its expiration) will continue to have those functions deemed essential.

8. If any business, facility, or venue involves or operates more than one activity or function, each activity or function must follow any provisions of this order specifically addressing that activity or function. For example, a community center that includes a fitness center, a pool, and an event space may open the fitness center but may not open the pool or event space (regardless of capacity).
9. Nothing in this order shall restrict, limit, or supersede the Secretary of Health and Environment's authority to make isolation, quarantine, or other orders restricting movement as necessary to respond to escalating or worsening conditions in any local jurisdiction.
10. Local governments retain authority to issue and enforce equally or more restrictive orders or provisions and retain any authority to issue or enforce isolation or quarantine orders or other orders restricting movement as necessary to respond to escalating or worsening conditions in any local jurisdiction.
11. As currently permitted pursuant to state law, law enforcement officers enforcing this order should use their discretion, consult with their legal counsel, and consider the totality of the circumstances as they determine appropriate enforcement actions.
12. In order to more accurately track and assess statewide status of COVID-19 cases, private labs conducting testing for COVID-19 shall report both positive and negative tests to the Kansas Department of Health and Environment.
13. The Four Tribes of Kansas (Iowa Tribe, Kickapoo Nation, Prairie Band Potawatomie Nation, and Sac & Fox Nation) retain any authority to regulate through their respective tribal councils for the health and welfare of their population.
14. This order should be read in conjunction with other executive orders responding to the COVID-19 pandemic that are still in effect and supersedes any contrary provisions of previous orders.

This document shall be filed with the Secretary of State as Executive Order No. 20-34. It shall become effective as of 12:00 a.m. on May 22, 2020, and remain in force until rescinded or until the statewide State of Disaster Emergency proclaimed on April 30, 2020, relating to COVID-19 expires, whichever is earlier. This order may be extended or modified as circumstances dictate.

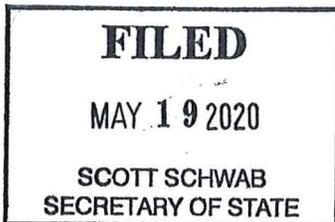
THE GOVERNOR'S OFFICE

BY THE GOVERNOR

Laura Bell

DATED

5.19.2020



Scott Schwab

Secretary of State

Danett Roe

Assistant Secretary of State

Guidance for Individuals and Employers/Businesses

1. Guidance for Individuals:

- a. Individuals are strongly encouraged to wear cloth masks in public settings as appropriate and especially when using mass transit. Employees should follow industry-specific guidance on mask use in workplaces.
- b. When in public (e.g. parks, outdoor recreation areas, shopping areas) all individuals (not including individuals who reside together) should maintain a 6-foot distance from others with only infrequent or incidental moments of closer proximity.
- c. Avoid socializing in person with groups of more than 15 individuals in both indoor and outdoor settings, especially in circumstances that do not allow for a physical distance of 6-feet or more between individuals or groups with only infrequent or incidental moments of closer proximity (e.g., receptions, trade shows).
- d. All high-risk or vulnerable individuals should continue to stay home except for essential needs.
- e. Minimize or eliminate non-essential travel and adhere to CDC and KDHE guidelines regarding isolation or quarantine following travel to high-risk areas. Essential travel includes travel for urgent family, medical, and business-related needs as determined by the individual or business.

2. Guidance for Employers/Businesses:

- a. Continue to strongly encourage telework for all employees when possible.
- b. Avoid gatherings of employees in groups of more than 15 individuals where 6-foot distances between individuals cannot be maintained except for infrequent or incidental moments of closer proximity.
- c. Gradually phase in employees on-site as possible while maintaining 6 feet between employee workstations.
- d. Any employees exhibiting symptoms should be required to stay at home and asked to call their health care provider.
- e. Minimize or eliminate non-essential travel and adhere to CDC and KDHE guidelines regarding isolation or quarantine following travel to high-risk areas. Essential travel includes travel for urgent family, medical, and business-related needs as determined by the individual or business.
- f. Strongly consider special accommodations for personnel who are members of a vulnerable population.

EXHIBIT J

STATE OF DISASTER EMERGENCY PROCLAMATION

Executive Department
State of Kansas
Topeka, Kansas

By the Governor

By virtue of the authority vested in me by the Kansas Constitution Article I, Section 3, the Kansas Emergency Management Act, Chapter 48, Article 9, of the Kansas Statutes Annotated (“KEMA”), other relevant Kansas statutes, and any common law authorities to meet the inherent dangers of disasters or the imminent threats of disasters to which the State and its citizens are exposed, and upon advice of the State Adjutant General as the Director of the Division of Emergency Management, I hereby proclaim a State of Disaster Emergency as follows:

GOVERNOR’S INTENT TO PROTECT KANSANS FROM THE ECONOMIC CONSEQUENCES OF COVID-19 AND THE IMMINENT THREAT OF FUTURE OUTBREAKS

As Governor, I am responsible for meeting the dangers to the state and people presented by disasters.¹ Upon finding that a disaster has occurred or that the occurrence or the threat thereof is imminent, I must issue a proclamation declaring a state of disaster emergency. Today, there exists a new disaster and a new imminent threat of a disaster, and as such, I must issue a proclamation to protect, aid, and support the residents of Kansas and to maintain the activation of the state disaster emergency plan.

Without this Proclamation, the vital services necessary to help Kansans, as set forth in detail below, will immediately cease, which will exacerbate the disaster and threat of disaster for counties and individuals state-wide, slow the State’s economic recovery, cause widespread confusion, and allow an unnecessary and avoidable catastrophe occur. This Proclamation is necessary to protect Kansas from the current economic disaster and the imminent threat of additional disasters due to new spikes or outbreaks of COVID-19 cases.

The intent of this Proclamation is to help Kansans and the State recover economically and to prevent the imminent threat of further COVID-19 surges. No gubernatorial executive orders issued under the authority premised on this Proclamation will be used to restrict businesses from operating or to restrict the movement or gathering of individuals. Nor will any gubernatorial executive orders subjecting Kansans to criminal prosecution be issued under authority premised on this Proclamation.

As always, I encourage all Kansans to comply with the health guidelines from the Centers for Disease Control and Prevention and the Kansas Department of Health & Environment.

¹ KEMA imposes a general responsibility on the governor to meet the dangers to the state and people presented by disasters, which include epidemics and contagious and infectious diseases. AG Opinion No. 2020-6.

Additionally, the *Ad Astra: A Plan to Reopen Kansas* guidance is designed to help the local governments, citizens, and businesses of Kansas open and operate in a safe and productive manner. Compliance with this plan will help protect each other, help speed up our economic recovery, and allow us to prevent and address any future outbreaks or surges in COVID-19 cases.

NATURE OF THE DISASTER AND THE THREAT OF IMMINENT DISASTERS AS OF MAY 26, 2020

Economic Insecurity:

As of May 26, 2020, there is now significant economic insecurity for Kansans due to unemployment, which has become an unprecedented menace to the health, morals, and welfare of the people of this State.² New outbreaks of COVID-19 also threaten increased economic instability and present considerable risks and complications to the State's economic recovery. The economic fallout from the COVID-19 pandemic described above will likely be the sharpest downturn in the history of Kansas. The pandemic has now damaged the stability of local, state, national, and global economies with increasing threats of layoffs, furloughs, and significant decreases in pay. Involuntary unemployment and underemployment places a serious burden upon not only the unemployed or underemployed individual, but also his or her family and their ongoing wellbeing.

The state of unemployment and the continued threat to the Kansas economy presented by the presence of COVID-19 are unprecedented and constitute a disaster to the public health, safety, and welfare of Kansans that requires quick action and activation of the Kansas Response Plan to respond to the economic threats facing Kansans.

Threats to the Food Supply:

As of May 26, 2020, there are now significant threats to the food supply in the United States and Kansas. The food supply is currently disrupted by new COVID-19 outbreaks and has caused the closure of meat processing plants or has caused plants to run at less than full capacity. The Department of Agriculture is working with multiple food processing plants due to outbreaks of employees and county residents testing positive for COVID-19.³ The Centers for Disease Control and Prevention (CDC) Rapid Response Teams are now deployed with testing supplies and equipment to support the State due to the present disaster.⁴ Four counties with meat processing plants are using non-congregant housing, contracted by KDEM, to support meat processing plant employees who have contracted or been exposed to COVID-19.⁵ The current disaster requires the these services.

² The public policy of Kansas, as expressed in K.S.A. 44-702, is that economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of Kansas. *See also* Kansas Department of Labor's Labor Market Report for April 2020, released May 22, 2020, available at <https://www.dol.ks.gov/docs/default-source/home-page-news/2020/labor-market-report-april-2020.pdf>.

³ Situation Report 75, May 26, 2020.

⁴ *Id.*

⁵ *Id.*

Additionally, due to national meat processing plant closures, there is now a backlog of swine that are ready for slaughter, and hundreds of thousands of hogs have grown too large to be slaughtered commercially forcing farmers to kill them and dispose of their carcasses without processing them into food. KDHE's Bureau of Waste Management is evaluating mass euthanasia sites for composting permits.⁶ KDHE's Bureau of Environmental Field Services is assisting hog producers to adjust their operations to allow for selective euthanasia due to packing plants reducing capacity in other states.⁷ This new crisis not only threatens the food supply but also the economic wellbeing of hundreds of farmers and employees in Kansas.

The CDC has reported COVID-19 cases among U.S. workers in 115 meat and poultry processing facilities in 19 states.⁸ Among approximately 130,000 workers at these facilities, there have been nearly 5,000 positive cases and 20 deaths.⁹ Factors potentially affecting risk for infection include difficulties with workplace physical distancing and hygiene and crowded living and transportation conditions. The food production industry is considered critical infrastructure, as described by the U.S. Department of Homeland Security, and its workers must be able to operate in an environment of enhanced security. As COVID-19 now sees major outbreaks in Central and South America, the pandemic has created a massive new threat to global food security. The imminent threats to the food supply have caused and will continue to cause increased food insecurity for Kansans. Additionally, the new threats to the food supply in the United States and Kansas will impact national security.

This Proclamation is necessary for the State to continue to support these workers and businesses, to secure the adequate and safe functioning of the food supply system, and to help the economic recovery of Kansas.

Imminent Threat of Surges of COVID-19 Infections during Reopening:

As of May 26, 2020, there is a new imminent threat of surges in COVID-19 infections in the State of Kansas as statewide restrictions on businesses and individual movement and gatherings are lifted that endangers the State's economic recovery. Since May 15, 2020, fifteen counties in the State have for the first time issued an emergency declaration resulting from the pandemic, indicating a further threat to the State's economic recovery. Indeed, the new risk of COVID-19 outbreaks after the lifting of all statewide restrictions creates a significant threat to the economic wellbeing of all Kansans. Without the continued ability to distribute testing supplies, medical supplies, and personal protective equipment, and to provide contact-tracing, medical services capacity, and other resources, the state will be unable to prevent, mitigate, or respond to the imminent risk of a new outbreak of COVID-19 cases that imperils our economic recovery.

AREA AFFECTED BY THE DISASTER

⁶ *Id.*

⁷ *Id.*

⁸ <https://www.cdc.gov/mmwr/volumes/69/wr/mm6918e3.htm>

⁹ *Id.*

All 105 counties in Kansas; Iowa Tribe of Kansas and Nebraska; Kickapoo Tribe of Kansas; Prairie Band of Potawatomi Nation; and Sac and Fox Nation of the Missouri in Kansas and Nebraska.

DATE THAT DISASTER AFFECTED THE AREA

May 26, 2020, and continuing

SERVICES ENABLED BY THIS PROCLAMATION

To meet these new dangers facing all Kansans, as Governor, I must proclaim a state of disaster emergency to implement the Kansas Response Plan and utilize the full resources of the State, the National Guard, KDEM, other state agencies, and any available federal funding and resources. These resources are desperately needed by the counties of this State. The economic disaster and the threat of new imminent disasters requires the delivery of the following services provided by KDEM, KDHE, the Kansas National Guard, and the federal government:

1. A total of 678 National Guard personnel are supporting numerous field missions in counties throughout the State, and their service is necessary to meet the disaster and threat of disaster currently facing the State.
2. KDEM and the National Guard are providing numerous types of vital food support to Kansans and communities to protect against the threat to the food supply.
3. KDEM and the National Guard are delivering medical and non-medical personal protective equipment (“PPE”) to hospitals, first responders, and others, and this service is necessary to meet the imminent threat of surges in COVID-19 infections.
 - a. Over 7,000 cases of PPE have been delivered across the state, which includes over 3.2 million individual pieces of PPE delivered throughout the State;
 - b. Today, through KDEM, I am sending 340 cases of PPE to 14 different locations that need this vital equipment because of the current disaster.
4. The Kansas Department of Corrections has requested that KDEM and the emergency response provide support personnel, including 35 medical support personnel, 10 prisoner transport personnel, and 20 food preparation and operations personnel.
5. KDEM has made 26 deliveries of Remdesivir to 10 counties. Remdesivir is delivered to hospitals to treat critical patients, and this service is potentially life-saving for those patients. KDEM needs the ability to continue making these deliveries immediately when needed throughout the State.
6. KDEM is providing non-congregate shelter for positive and exposed persons who are essential workers. There are currently 50 contracts related to non-congregate sheltering

needed for the present disaster. Continuing to provide this support will mitigate the threat to the food supply and the threat of surges in COVID-19 infections.

7. Medical workers and first responders now rely on the Battelle Critical Care Decontamination System to decontaminate their PPE. This system is provided by KDEM and continuing to provide this service will mitigate the threat of surges in COVID-19 infections.
8. KDEM manages donations and warehouse space necessary to store PPE. This storage is necessary due to the threat of new COVID-19 outbreaks as statewide restrictions are lifted and the economy reopens.
9. KDHE is providing community-based testing under the State Emergency Response Plan. Increased testing will help the State mitigate the threat of, or respond to, future outbreaks and allows businesses, employees, and customers to resume economic activity with increased confidence that outbreaks will be prevented or mitigated.
10. KDEM is transporting testing samples and has transported over a thousand samples to state labs since April 29, 2020. By transporting the tests via KDEM couriers, the tests arrive at the lab the same date they are collected and results are provided the following day. Without this same-day service, the results of the tests will be delayed and the ability to contact-trace will be severely limited, risking additional illness and death as well as economic insecurity.
11. KDEM is providing 16 translators to support contact-tracing operations to mitigate the current and imminent threat of a new COVID-19 outbreak.
12. The Civil Air Patrol provides needed emergency transportation.

Without this Proclamation, the services set forth above cannot be provided, creating an unnecessary and avoidable economic burden to all Kansans, but more importantly leaving Kansas unable to address the unprecedented economic threat caused by COVID-19 and the imminent threat of continued illness and death. Additionally, without this Proclamation and the emergency response it enables, the following significant problems will likely occur:

1. Possible closure of meat processing plants;
2. Inability to assist hog farmers with the euthanasia and disposal of excess hogs;
3. The loss of unemployment benefits;
4. Significant delay and the potential to severely frustrate the economic recovery of the State;
5. Reduced PPE inventory for health care workers and first responders;
6. KDEM would be unable to receive, sort, package, and transport PPE and other commodities to health care workers and first responders;

7. Food shortage and an inability of State agencies to provide the various food programs needed to assist Kansans;
8. Reduced testing and a lack of timely test results;
9. Inability to conduct contact-tracing missions;
10. Increased outbreaks of COVID-19 in the prison population;
11. Increased outbreaks of COVID-19 in nursing homes;
12. Inability to service or transport ventilators or anesthesia machines;
13. Inability to coordinate mission assignments or take emergency actions necessary to deal with issues related to the current disaster;
14. No immunity for State employees or volunteers providing vital services;
15. Inability to initiate and maintain the Kansas Response Plan; and
16. Increased costs to the State as a result of losing federal funding.

If the state of disaster emergency declared by this Proclamation is not extended, these services must end in 15 days.

PROCLAMATION

I hereby proclaim and order the Adjutant General of the State of Kansas to activate the disaster response and recovery portions of the Kansas Response Plan. The Adjutant General shall coordinate local and inter-jurisdictional disaster plans applicable to the political subdivisions of areas affected by this Proclamation.

Any or all of the powers conferred upon the Governor by the Kansas Emergency Management Act may be delegated to the Adjutant General as deemed appropriate during this period of proclaimed State of Disaster Emergency. This may be delegated by written orders, or oral orders subsequently reduced to writing with reference to this Proclamation.

I hereby suspend the provision of any regulatory statute prescribing the procedures for conduct of state business, or the order or rules and regulations of any state agency which implements such statute, if strict compliance with the provisions of such statutes, order or rule and regulation would prevent, hinder, or delay in any way necessary action in coping with the disaster as set forth in K.S.A. 48-925(c)(1).

Any agreements or contracts executed pursuant to the State of Disaster Emergency Proclamations issued on March 12, 2020, or April 30, 2020, may continue under this new Proclamation to the extent permissible pursuant to the terms of such agreements or contracts.

If a court of competent jurisdiction declares that any provision of this Proclamation, any order issued under the authority it invokes, or any section or subsection of any order issued under the authority it invokes is to any extent invalid, illegal, or incapable of being enforced, such provision shall be excluded to the extent of such invalidity, illegality, or unenforceability, all other terms hereof shall remain in full force and effect to ensure the activation of the disaster response and recovery portions of the Kansas Response Plan to assist and protect Kansans during this disaster.

This Proclamation shall be filed promptly with the Division of Emergency Management, the Office of the Secretary of State and each city clerk or county clerk, as appropriate, in the area to which this Proclamation applies. Further dissemination of this Proclamation shall occur by means calculated to bring its contents to the attention of the general public.

DONE At the Capitol in
Topeka Under the Great Seal of
The State this 26th, day of May
A.D., 2020

THE GOVERNOR:





Secretary of State

Assistant Secretary of State