STATE OF KANSAS

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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 50 1 (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; 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. 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.

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 Kelly

DATED 5.19.2020

FILED
MAY 19 2020
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SECRETARY OF STATE

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Secretary of State

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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.