



# Canby Police Department

DATE: April 28, 2020

TO: Members of the Canby Police Department

FROM: Chief Bret J. Smith

SUBJ: Law Enforcement Protocols for Contact with Non-Compliant Businesses Under COVID-19 Executive Order 20-12

As declared in Governor Brown's Executive Order issued on March 23, 2020, the State of Oregon has been under a state of emergency. Because it is believed COVID-19 causes respiratory disease leading to serious illness or death, the Executive Order directs individuals, to the maximum extent possible, to stay at home or their place of residence, as it is believed to be essential to the health, safety and welfare of the people of Oregon. The purpose of the Executive Order is to reduce person-to-person interaction with the goal of slowing transmission of the virus.

The Executive Order requires the closure of certain businesses, for which close personal contact is difficult or impossible to avoid. For all other retail businesses that are not subject to closure, the Executive Order clearly states the business demonstrate compliance by implementing and enforcing social distancing policies consistent with the guidance given by the Oregon Health Authority.

While Governor Brown announced on April 20, 2020, that discussions are taking place for the purpose of relaxing some of the restrictions identified in the Executive Order, no such date has been determined. As announced in the Governor's plan, "Reopening Oregon: A Public Health Framework for Restarting Public Life and Business", it was emphasized that "You don't make a timeline. The virus makes the timeline." Public Health guidance will determine when communities can reopen, but the required resources and timeline is uncertain. Other than those business that are specifically identified to reopen, the Executive Order states the order will remain in effect until terminated by the Governor.

As identified in the Executive Order, failure to comply with any of the provisions in the Executive Order constitutes an imminent threat and creates an immediate danger to public health because of the highly contagious characteristics of COVID-19. Those businesses and non-profits that qualify to operate under workplace restrictions and fail to comply with the Executive Order could be closed until they demonstrate compliance.

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Our Values  
Service  
Integrity  
Respect

*"Dedicated police professionals committed to the community and the highest standard of excellence and achievement."*

As directed by the Department of Justice and the Office of the Attorney General, if a law enforcement agency receives a complaint or comes into contact with a potentially non-compliant business, the incident will be investigated to determine if the business is out of compliance. The intent is to first treat the interaction as an educational opportunity, anticipating that after having a positive interaction with law enforcement, the business will modify or suspend their operations, resolving the situation without further action. The warning and educational interaction between the law enforcement representative and the business will be documented in a police report.

Those businesses that remain non-complaint, may be subjected to the penalties described in Oregon Revised Statute (ORS) 401.990, which is classified as a Class C Misdemeanor under Oregon law; and is punishable by up to 30 days in jail, a fine of up to \$1,250, or both.

Further, if a business continues to operate in a non-compliant manner after receiving a warning and educational interaction with law enforcement, the law enforcement representative is required to document the incident by writing a detailed police report that explains the reason the business appeared non-compliant. The written report will be submitted to the relevant business licensing or regulatory authority. The relevant licensing or regulatory authority will determine what intervention will take place through their administrative process, if any. In some instances, those businesses that operate in a manner inconsistent with the Executive Order could face action against them that includes a suspension or revocation of their business license, as well as civil penalties up to \$5,000.

It is not the intent that law enforcement issue citations on cases of business non-compliance. However, law enforcement has the authority to cite for "Failure to Comply" with an Executive Order. A cite in lieu would be appropriate for these businesses and any person violating provisions of the Executive Order (all attendees). If a police officer believes such action is necessary and a citation should be issued due to the businesses disregard of the educational interaction and warning of non-compliance of the Governor's Executive Order, a citation may be issued. Any citations issued to a non-compliant business must first be approved by a supervisor.