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Employer FAQs on the Denver “Stay At Home” Order

On March 23, 2020, Mayor Hancock issued a “Stay At Home” Order for the City and County of Denver regarding the spread of the novel Coronavirus. The full text of the Order can be found [here](#). The Order’s intent is “to ensure that the maximum number of people self-isolate in their places of residence to the maximum extent feasible to slow the spread of COVID-19 to the greatest extent possible.” The Order provides exceptions to engage in Essential Activities, to provide Essential Government Functions, and to operate Essential Businesses. These exceptions, discussed below, may be narrowly interpreted to achieve the Order’s stated intent.

If you have any specific questions about this law or other issues, please feel free to contact Dworkin, Chambers, Williams, York, Benson & Evans at (303) 584-0990.

1. How long will the Order be in effect?

The Order will be effective from 5:00 p.m. on Tuesday, March 24, 2020 until 5:00 p.m. on Friday, April 10, 2020 unless it is extended, rescinded, or amended during that time.

2. Who does the Order apply to?

The Order applies to all Denver residents and all businesses with a facility in Denver. Individuals are ordered to stay in their place of residence, which includes hotels, motels, shared rental units, and similar facilities. Denver residents are permitted to leave their residence only to engage in an Essential Activity, provide an Essential Government Function, or operate an Essential Business. Any individual who leaves his or her residence for one of these reasons must practice social distancing to the greatest extent possible.

The Order does not provide an exception for Denver residents to leave their residence to perform a non-essential activity or do non-essential work in another county. But Denver residents may travel to another county, and non-Denver residents may enter Denver, in order to engage in an Essential Activity, provide an Essential Government Function, or operate an Essential Business.

Non-residents who are present in Denver when the Order goes into effect will be permitted to return to their place of residence as a form of Essential Travel. The Order does not apply to individuals experiencing homelessness.

Essential Businesses are asked to stay open but must observe social distancing to the greatest extent possible. Social distancing must be followed with respect to both coworkers and any customers or other members of the public. All other, non-essential businesses with a facility in Denver must reduce their Denver-based activities to Minimum Basic Operations unless their employees are able to work remotely.

3. What are considered Essential Businesses?

The Order provides a lengthy list of business categories that are deemed “Essential Businesses.” The language of the Order indicates that this list is exhaustive and any business that doesn’t fall within one of the following categories will not be considered an Essential Business.

Please note that the list below is an abbreviated version of the Essential Businesses list, not a word-for-word reproduction of the list. If you have any questions if your business qualifies, please review the full list (available [here](#)) or you may contact us directly.

- 1) Healthcare Operations, Essential Infrastructure, and Essential Government Functions;
- 2) Grocery stores, supermarkets, convenience stores, and other establishments engaged in the retail sale of food, pet supplies, and other household consumer products;
- 3) Food and plant cultivations (farming, livestock, fishing, etc.);
- 4) Businesses that provide food, shelter, and other necessities for needy individuals;
- 5) Newspapers, television, radio, and other media services;
- 6) Gas stations and auto-supply, auto-repair, and related facilities;
- 7) Banks and related financial institutions;
- 8) Hardware stores;
- 9) Plumbers, electricians, exterminators, and other businesses that provide services necessary to safety, sanitation, and essential operation of residences and businesses;
- 10) Businesses providing mailing and shipping services;
- 11) Educational institutions but only to provide distance learning or to perform Essential Functions;
- 12) Laundromats, dry cleaners, and laundry service providers;
- 13) Restaurants and other facilities that prepare and serve food but only for delivery, takeout, or drive thru;
- 14) Businesses that supply products needed for people to work and learn from home;

- 15) Businesses that provide necessary support or supplies to Essential Businesses;
- 16) Businesses that ship or deliver groceries, food, goods, or services directly to residences;
- 17) Licensed medical marijuana stores;
- 18) Airlines, taxis, private transportation providers, and other businesses that provide transportation and transportation support for Essential Activities;
- 19) Home-based care for senior, adults, or children (nannies and babysitter are excluded unless they allow parents/guardians to work for an Essential Business or perform an Essential Government Function);
- 20) Residential establishments and facilities, including hotels and motels;
- 21) Professional services including legal, insurance, accounting, and tax prep services;
- 22) Faith-based establishments; and
- 23) Childcare facilities, provided children are in groups of 10 or less with each group in a separate room, not mixing together, and childcare providers assigned to only one group.

Liquor, beer, and recreational marijuana stores were originally excluded from this list but then added soon after it was first announced.

4. What are considered Minimum Basic Operations?

Denver-based facilities of businesses that are not considered Essential Businesses are required to reduce to Minimum Basic Operations if their employees cannot work remotely. Minimum Basic Operations mean the minimum activities necessary to:

- Maintain that value of inventory, ensure security, process payroll and benefits, or perform related functions;
- Facilitate employees' ability to work remotely; and
- Facilitate employees' ability to continue filling online product orders and to process orders remotely.

All employees performing Minimum Basic Operations must practice social distancing to the greatest extent possible.

5. What are considered Essential Activities?

Denver residents are permitted to leave their residences to engage in Essential Activities, but individuals at high risk of serious illness from COVID-19 are encouraged to stay at home as much as possible if medical care is not necessary. Essential Activities are defined as:

- 1) Performing activities or tasks essential to a person's health and safety or the health and safety of the person's family or household members (including pets), such as obtaining medicine, visiting a health care professional, or purchasing supplies to work from home;

- 2) Obtaining or delivering necessary services or supplies, including but not limited to food, pet supplies, and other household products necessary to maintain the safety, sanitation, and essential operation of the residence;
- 3) Engaging in outdoor activity, including walking, running, and hiking, provided that social distancing is observed (group sports and activities that preclude social distancing are prohibited);
- 4) Performing work to provide essential products and services at an Essential Business or a business observing Minimum Basic Operations; and
- 5) Caring for a family member or pet in another household.

All public and private gatherings outside a single household or living unit are prohibited, regardless of the number of people gathering, except to engage in an Essential Activity, provide an Essential Government Function, or operate an Essential Business. The Order does not prohibit gatherings among individuals of a single household or living unit.

All travel other than Essential Travel is prohibited, particularly travel by public transportation. Essential Travel is defined as travel to engage in an Essential Activity, provide an Essential Government Function, or operate an Essential Business. It also includes travel to care for a vulnerable person (elderly, minors, dependents, individuals with disabilities), travel to and from educational institutions, travel required by court order or law enforcement, and travel to return to residence outside of Denver.

If a resident takes public transportation for Essential Travel, social distancing must be followed to the greatest extent possible.

6. What are considered Healthcare Operations, Essential Government Functions, and Essential Infrastructure?

The Order excludes Denver residents who are engaged in Healthcare Operations, Essential Government Functions, and Essential Infrastructure. These terms are broadly defined to protect public health and safety and provide for the continuity of necessary social institutions.

Healthcare Operations include but are not limited to: hospitals, clinics, medical and dental care (excluding elective procedures), nursing homes, residential health care providers, home health care companies, pharmacies, medical supplies and equipment manufacturing and sales, veterinary care, animal shelters, and pet boarding services. Health clubs, fitness and exercise gyms, and similar facilities are specifically excluded from the list of Healthcare Operations.

Essential Government Functions include but are not limited to: law enforcement, fire prevention and response services, building code enforcement, emergency response and dispatch, court personnel, military personnel, Colorado State Legislature, Denver City Council and other city boards and commissions, and security personnel.

Essential Infrastructure includes but is not limited to: gas and electrical services, utilities and power generation and transmission, water and sewer services, public works constructions, oil and gas operations, roads and highways, public transportation, solid waste collection and removal, airport operations (including passenger and cargo operations), internet and telecommunication systems, and housing construction.

Please note that the above is an abbreviated version of the definitions for Healthcare Operations, Essential Government Functions, and Essential Infrastructure. If you have any questions if your business qualifies, please review the full definitions (available [here](#)) or you may contact us directly.

7. What are the guidelines for Social Distancing?

The Order requires Denver residents to practice social distancing to the greatest extent possible whenever they leave their residences. Social distancing includes the following practices:

- 1) Maintaining at least a six-foot distance from others;
- 2) Not shaking hands;
- 3) Covering coughs and sneezes with sleeve or elbow, not the hands;
- 4) Washing hands frequently with soap and water for at least 20 seconds, or using hand sanitizer when sinks are unavailable; and
- 5) Regularly cleaning frequently touched surfaces.

8. Is there a penalty for violating the Order?

Any individual who fails to comply with the Order could receive a civil penalty of up to \$999.00 per violation. The individual could also face other civil, criminal, or administrative actions, fees, fines, penalties, or sentences in addition to the \$999.00 fine.