

April 9, 2020

Re: New Key Mandatory Requirements for All Essential Businesses

Dear Valued DLC Clients,

The Health Officer of Sacramento County has issued a new mandatory shelter-in-place order effective April 7, 2020 (attached to this email.) This new Order supersedes the March 19, 2020 Order issued by the Health Officer, and strengthens certain requirements. Most of the Order remains unchanged, requiring persons to remain in their residences except for limited purposes, such as working at Essential Businesses and engaging in Essential Activities.

Below are new key mandatory requirements for all Essential Businesses which must be adopted immediately, including two components of mandatory signage at all public entrances and the implementation of a Social Distancing Protocol. We also summarize below other key provisions of the Order applicable to businesses, some of which are strengthened further.

Social Distancing Protocol – Prepare, Post, Provide to Employees, And Implement

All Essential Businesses must prepare a Social Distancing Protocol for each of their facilities that are frequented by the public or employees. The Protocol should be substantially in the form of Appendix A (attached to this email). Once you have prepared the protocol, you must:

- Post a copy of the Social Distancing Protocol at every public entrance to the business;
- Provide a copy of the Social Distancing Protocol to each employee performing work at the facility. While the Order does not specify, electronic copies are likely permissible; and
- Implement the Social Distancing Protocol and be able to provide evidence of implementation upon demand to any authority enforcing the April 7, 2020 Order.

The Social Distancing Protocol must explain how the business is achieving the following, as applicable:

- Limiting the number of people who can enter into the facility at any one time to ensure that people in the facility can easily maintain a minimum six-foot distance from one another at all times, except as required to complete the Essential Business activity;
- Where lines may form at a facility, marking six-foot increments at a minimum, establishing where individuals should stand to maintain adequate social distancing;
- Providing hand sanitizer, soap and water or effective disinfectant at or near the entrance of the facility and in other appropriate areas for use by the public and employees, and in locations where there is high-frequency employee interaction with members of the public (e.g. cashiers);

- Providing for contactless payment systems or, if not feasible to do so, the providing for disinfecting all payment portals, pens and styluses after each use;
- Regularly disinfecting other high-touch surfaces;
- Posting a sign at the entrance of the facility informing all employees and customers that they should: avoid entering the facility if they have a cough or fever; maintain a minimum six-foot distance from one another; sneeze and cough into one's elbow; not shake hands or engage in any unnecessary physical contact; and
- Any additional social distancing measures being implemented (see the Centers for Disease Control and Prevention's guidance at: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidancebusiness-response.html>).

Additional Required Public Entrance Signage

At each public entrance of the facility, all businesses must have signage to inform all employees and customers that they should:

- Avoid entering the facility if they have a cough or fever;
- Maintain a minimum six-foot distance from one another;
- Sneeze and cough into a cloth or tissue or, if not available, into one's elbow; and
- Not shake hands or engage in any unnecessary physical contact.

Who May Operate and to What Extent?

All operations with a facility in the county must cease operations, except that:

- Essential Businesses may continue operations in compliance with the Order;
- All businesses may continue operations consisting exclusively of owners, employees, volunteers, or contractors performing activities at their own residences (i.e., working from home).

Essential Businesses Must Now Maximize the Number of Employees Who Work from Home

Essential Businesses are strongly encouraged to remain open. Essential Businesses may only assign those employees who cannot perform their job duties from home to work outside the home.

Mixed Essential and Non-Essential Businesses

Mixed businesses should scale down operations to essential components. However, mixed retail businesses that are allowed to operate under this order may continue to stock and sell non-essential products, such as liquor stores that also sell food.

When Is Travel Outside One's Residence Permitted?

Travel outside the residence is permitted for Essential Activities, Essential Business, and Essential Travel. More specifically, travel outside one's residence is permitted for the following purposes, all defined in the Order: to perform Essential Activities, 12 (a); for Healthcare Operations, 12 (b); to maintain Essential Infrastructure, 12 (c); for Essential Governmental Functions, 12 (e); to operate Essential Businesses, 12 (g); and for Essential Travel, Section 12 (j). Individuals shall maintain Social Distancing Requirements during these activities, subject to limited exceptions.

All public and private gatherings of any number of people occurring outside a single household or living unit are prohibited, except for the limited purposes permitted by the Order.

Social Distancing Requirements for All Individuals Outside Their Residences

- Maintaining at least six-foot social distancing from individuals who are not part of the same household or living unit;
- Frequently washing hands with soap and water for at least 20 seconds, or using hand sanitizer that is recognized by the Centers for Disease Control and Prevention as effective in combatting COVID-19;
- Covering coughs and sneezes with a tissue or fabric or, if not possible, into the sleeve or elbow (but not into hands); and
- Avoiding all social interaction outside the household when sick with a fever or cough.

Limited Exceptions to Social Distancing Requirements

- To provide care (including childcare, adult or senior care, care to individuals with special needs and patient care);
- As necessary to carry out the work of Essential Businesses, Essential Governmental Functions;
- As otherwise expressly provided in the Order (for example, transit agencies and people using transit must comply with the Social Distancing Requirements "to the greatest extent possible.")

Among Others, the Order Adds and Limits the Following Essential Businesses and Activities

- Allowed: Providers that enable residential transactions (including rentals, leases and home sales) including but not limited to real estate agents, escrow agents, notaries and title companies, provided that the services carried out comply with Social Distancing Requirements to the extent possible.
- Allowed: Funeral home providers, mortuaries, cemeteries and crematoriums.
- Limited: Children of owners, employees, volunteers and contractors who do not own, work or volunteer for or contract with essential businesses or essential government functions **may not** attend childcare facilities.

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What If a Conflict Exists Between this Sacramento County Order and a State Order?

The most restrictive provision controls. For example, although this County Order appears to allow Non-Essential Businesses to conduct Minimum Basic Operations, our interpretation is that Governor Newsom's California-wide Shelter-in-Place Executive Order does not provide for this exception, and the state's Executive Order controls. Therefore, our interpretation is that currently there are no permitted "Minimum Basic Operations" for Non-Essential Businesses. However, this could change if the state issues such exemptions to its Executive Order.

Who Is Exempt from this Order?

All first responders, emergency management personnel, public health staff, emergency dispatchers, court personnel, and law enforcement personnel, and others who need to perform essential services are categorically exempt from this Order to the extent they are performing those essential services.

How Long Is This Order in Effect?

It is effective as of 11:59 p.m. on April 7, 2020 and will continue to be in effect until 11:59 p.m. on May 1, 2020, or until it is extended, rescinded, superseded or amended in writing by the Health Officer.

Current County Statistics

As of April 3, 2020, there were 390 cases of COVID-19 in the County (up from 45 confirmed cases on March 18, 2020, just before the Prior Stay at home Order), and at least 10 deaths (up from three deaths on March 18, 2020).

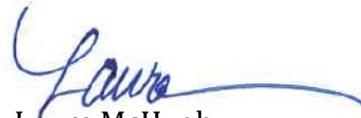
As Covid-19 continues to affect our workplaces and life in general, Duggan Law Corporation is committed to helping clients navigate these issues. We are here to answer any questions you may have regarding this, or the other developments as they occur.

Be well.

Very truly yours,

DUGGAN LAW CORPORATION


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