

April 2020

Client Advisory

New Jersey Governor Issues Executive Order Expanding Covid-19 Restrictions Relating to Construction Work and Retail Businesses

On April 8, 2020, New Jersey Governor Phil Murphy issued [Executive Order No. 122](#), which does the following:

- Halts all non-essential construction projects and defines construction projects that may continue. (See page 7 in the [Executive Order](#))
- Imposes new minimum requirements for all essential construction, manufacturing and warehousing business. (See pages 9 and 11 in the [Executive Order](#))
- Places significant new restrictions on all essential retail business operations. (See page 11 in the [Executive Order](#))
- Imposes new minimum cleaning requirements on all operating business locations. (See page 12 in the [Executive Order](#))

All of these new restrictions and rules take effect on Friday, April 10, 2020 at 8:00 p.m.

Construction

All physical operations for non-essential construction projects across the state must cease indefinitely at 8:00pm on Friday, April 10, 2020. The Order defines Essential Construction Projects, which are allowed to continue after April 10, 2020, as follows:

- Projects for the delivery of healthcare services that include, but are not limited to hospitals, pharmaceutical manufacturing facilities and other health care facilities.
- Transportation projects for roads and bridges and facilities for electricity generation.
- 100% affordable housing projects.
- Projects for K-12 schools and higher education facilities.
- Residential projects already underway for individual single-family homes (including additions such as solar panels), or an individual apartment unit where an individual already resides, with a construction crew of 5 or fewer individuals.
- Projects already underway involving a residential unit for which a tenant or buyer has already entered into a legally binding agreement to occupy the unit by a certain date, and construction is necessary to ensure the unit's availability by that date.
- Projects involving facilities involving the manufacture, distribution, storage or servicing of goods or products sold by on-line retail businesses or essential retail business (as defined by Executive Order No. 107).

- Any project necessary to support law enforcement or first responder units.
- Any project that is ordered or contracted for by Federal, State, county or municipal government or project that must be completed to meet a deadline established by the Federal government.
- Any work on a non-essential construction project that is necessary to secure the site to address life and safety issues.
- Any emergency repairs necessary to ensure health and safety of residents.

New Minimum Requirements for Essential Businesses Operating in Construction, Manufacturing and Warehousing

Manufacturing businesses, warehousing businesses, and businesses engaged in essential construction projects must adopt policies that include the following minimum requirements:

- Prohibit non-essential visitors from entering the worksite.
- Limit worksite meetings, inductions, and workgroups to groups of fewer than ten individuals.
- Require individuals to maintain six feet or more distance between them wherever possible.
- Stagger work start and stop times where practicable to limit the number of individuals entering and leaving the worksite concurrently.
- Stagger lunch breaks and work times where practicable to enable operations to safely continue while utilizing the least number of individuals possible at the site.
- Restrict the number of individuals who can access common areas, such as restrooms and breakrooms, concurrently.
- Require workers and visitors to wear cloth face coverings, in accordance with CDC recommendations, while on the premises, except where doing so would inhibit the individual's health or the individual is under two years of age, and require workers to wear gloves while on the premises. Businesses must provide, at their expense, such face coverings and gloves for their employees.
- If a visitor refuses to wear a cloth face covering for non-medical reasons and if such covering cannot be provided to the individual by the business at the point of entry, then the business must decline entry to the individual.

- The business cannot require an individual who declines to wear a face covering on store premises due to a medical condition to produce medical documentation verifying the stated condition.
- Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal.
- Limit sharing of tools, equipment, and machinery.
- Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to workers and visitors.
- Require frequent sanitization of high-touch areas like restrooms, breakrooms, equipment, and machinery.
- Adopt policies that include, at minimum, the following requirements:
 - Immediately separate and send home workers who appear to have symptoms consistent with COVID-19 illness upon arrival at work or who become sick during the day.
 - Promptly notify workers of any known exposure to COVID-19 at the worksite, consistent with the confidentiality requirements of the Americans with Disabilities Act and any other applicable laws.
 - Clean and disinfect the worksite in accordance with CDC guidelines when a worker at the site has been diagnosed with COVID-19 illness.
 - Continue to follow guidelines and directives issued by the New Jersey Department of Health, the CDC and the Occupational Health and Safety Administration, as applicable, for maintaining a clean, safe and healthy work environment.
- Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal.
- Provide employees break time for repeated handwashing throughout the workday.
- Arrange for contactless pay options, pickup, and/or delivery of goods wherever feasible. Such policies shall, wherever possible, consider populations that do not have access to internet service.
- Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to staff and customers.
- Require frequent sanitization of high-touch areas like restrooms, credit card machines, keypads, counters and shopping carts.
- Place conspicuous signage at entrances and throughout the store, if applicable, alerting staff and customers to the required six feet of physical distance.
- Demarcate six feet of spacing in check-out lines to demonstrate appropriate spacing for social distancing.
- Require workers and customers to wear cloth face coverings while on the premises (except where doing so would inhibit that individual's health or where the individual is under two years of age) and require workers to wear gloves when in contact with customers or goods. The employer must provide these items for its employee at the employer's expense.
- If a customer refuses to wear a cloth face covering for non-medical reasons and if such covering cannot be provided to the individual by the business at the point of entry, then the business must decline entry to the individual, unless the business is providing medication, medical supplies, or food, in which case the business policy should provide alternate methods of pickup and/or delivery of such goods.
- The business cannot require an individual who declines to wear a face covering on store premises due to a medical condition to produce medical documentation verifying the stated condition.

If you have questions or need more information, please contact Robert Bucknam at 856-354-3025 or rbuckman@archerlaw.com, or Clint Allen at 856-354-3017 or callen@archerlaw.com.

New Restrictions on Essential Retail Businesses (Including Food Stores)

Essential Retail Businesses that are allowed to operate under the Governor's prior Executive Orders must also do the following:

- Limit occupancy to 50% of the stated maximum store capacity at one time.
- Establish hours of operation that permit access solely to high-risk individuals (as defined by CDC) such as older adults and people who have severe underlying medical conditions like heart or lung disease or diabetes (if possible).
- Install a physical barrier, such as a shield guard, between customers and cashiers/baggers wherever feasible or otherwise ensure six feet of distance between those individuals, except at the moment of payment and/or exchange of goods.

New Minimum Cleaning Requirements for All In-Person Operating Businesses

Any business that operates in-person operations as permitted by prior Executive Orders (including owners of buildings used for commercial, industrial or other enterprises, including but not limited to facilities for warehousing, manufacturing, commercial offices, airports, grocery stores, universities, colleges, government, hotels, and residential buildings with at least 50 units) shall adopt policies that, at minimum, implement the following cleaning protocols in areas where operations are conducted:

- Clean and disinfect high-touch areas routinely in accordance with CDC guidelines, particularly in spaces that are accessible to staff, customers, tenants, or other individuals, and ensure cleaning procedures following a known or potential

exposure in a facility are in compliance with CDC recommendations.

- Otherwise maintain cleaning procedures in all other areas of the facility.
- Ensure that the facility has a sufficient number of workers to perform the above protocols effectively and in a manner that ensures the safety of occupants, visitors, and workers.

Contact Us

Please reach out to your Archer contact or any member of [Archer's COVID-19 Task Force](#) with any questions you may have.

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