

May 2020

Client Advisory

## Latest Executive Order Breathes Life into NJ Economy: Construction to Resume; Retail Opens at Curbside

Executive Order 142 (EO 142), issued by Governor Phil Murphy on May 13th, repeals and relaxes portions of his earlier Executive Orders, signaling the first steps towards normalizing New Jersey's economy. Specifically, EO 142 enables construction that had been deemed "non-essential" in an Order issued on April 8th to resume and retail activities previously deemed "non-essential" in an Order issued on March 21st to resume at curbside. EO 142 also enables gatherings to resume provided participants remain in their vehicles and abide by other restrictions. This new Order goes into effect at 6:00 a.m. on Monday, May 18th.

With an Order issued on April 8th, the Governor effectively stopped construction on most projects and sites except for those that were deemed "essential," including those involving healthcare facilities, transportation and infrastructure, utilities, affordable housing, schools, warehouses involved in e-commerce or distribution of goods by essential retail businesses, and some single family homes. EO 142 supersedes that former Order and removes the distinction between "essential" and "non-essential" construction projects. Beginning May 18th, construction can resume provided certain precautions are implemented to ensure health and safety protections for on-site workers, including: prohibiting non-essential visitors from job sites; employing social distancing during work activity; staggering work start and stop times to decrease on-site headcount as much as possible and to limit the number of those on-site concurrently; limiting in-person meetings and use of high congestion areas such as lunchrooms; requiring masks for workers and visitors; implementing infection control practices; limiting the sharing of tools; requiring frequent sanitization of "high-touch" areas; and the use of signage to detail the aforesaid mandates.

With an Order issued on March 21st, the Governor closed "non-essential" retail stores. EO 142 permits those stores to reopen, but precludes customers from entering the brick-and-mortar premises. Customers will be able to pick-up goods already ordered and paid for in advance, but they must remain in their vehicles while the store employees deliver their purchases at curbside. Goods purchased at stores in enclosed shopping malls can be bought and paid for in the same way, with delivery made at curbside outside the mall premises to customers waiting in their vehicles. The Order encourages retailers to utilize only as many on-site personnel as necessary to facilitate the ordering, purchasing and curbside delivery

of items. Retailers are also required to implement robust infection control measures including: providing sanitization materials to employees, such as hand sanitizer and wipes; frequent sanitization of "high-touch" areas; and requiring workers to wear masks and gloves, provided at the retailer's expense.

EO 142 also permits individuals to leave home to participate in gatherings, so long as they arrive by vehicle and stay in the same vehicle during the proceeding. The Order requires that car windows, doors and sunroofs remain closed at all times, unless the vehicles are more than 6 feet or more from other vehicles, except for those organizing or maintaining the gathering. Payment or donations for such gatherings must provide for contactless, on-line or telephonic payment wherever feasible. Recreational and entertainment events where customers do not leave their vehicles are now permitted.

EO 142 recognizes that gatherings of 10 or less people, who are not in vehicles as described in the new Order, do not violate EO 107, issued March 21st. Importantly, gatherings of more than 10 people, where such persons are not in their vehicles, remain precluded. Ten remains the "magic" number; EO 142 does not amend, supersede or modify the March 21st Order in this regard, and gatherings exceeding that number of attendees are still prohibited.

A copy of Executive Order No. 142 can be found [here](#).

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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