

## Illinois non-essential businesses forced to close through April 7



Teresa Metcalf Beasley, Michael W. Wise, Jeff Van Winkle | Monday, March 23, 2020

On March 20, 2020, Illinois Governor JB Pritzker issued Executive Order 2020-10, widely known as a “shelter-in-place” order, which requires citizens of Illinois “to stay at home or at their place of residence except as allowed in this Executive Order.” The order is effective through the remainder of the Gubernatorial Disaster Proclamation, which currently extends through April 7, 2020. The executive order creates exceptions to the stay at home requirement which generally fall into three categories: essential activities, essential government functions, and to operate essential businesses and operations.

### **WHAT IS THE SCOPE OF THE ORDER?**

The order requires all businesses and operations in the state, except essential businesses and operations, to cease all activities within the state except for continuing minimum basic operations. Businesses may continue operations consisting exclusively of employees or contractors performing activities from their own residences. Essential activities are also permitted.

### **WHAT ACTIVITIES ARE PROHIBITED?**

The executive order prohibits all public and private gatherings of any number of people occurring outside a single household or living unit, except for the limited purposes permitted by the order. The order closes all places of “public amusement” including locations with amusement rides, carnivals, zoos, museums, arcades, fairs, playgrounds, theme parks, bowling alleys, movie and other theaters, concert and music halls, country clubs and social clubs.

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### **WHAT IS AN “ESSENTIAL ACTIVITY?”**

The order defines essential activities as the following:

- For health and safety – allowing individuals to engage in activities or perform tasks essential to health and safety including seeking emergency services, obtaining medical supplies or medication, or visiting a healthcare professional.
- For necessary supplies and services – to obtain services or supplies for their family and household members including groceries and food, household consumer products, supplies they need to work from home, and products necessary to maintain the safety, sanitation, and essential operation of residences.
- For outdoor activity – to engage in outdoor activity including walking, hiking, running, or biking.
- For certain types of work – to provide essential products and services at essential businesses or operations.
- To take care of others – to care for a family member, friend, or pet in another household.

### **DOES MY BUSINESS QUALIFY AS AN “ESSENTIAL BUSINESS OPERATION?”**

The order states that the following are essential business operations:

- Stores that sell groceries and medicine.
- Food, beverage, and cannabis production and agriculture.
- Organizations that provide charitable and social services.
- Media, gas stations and businesses needed for transportation (including auto supply and auto repair businesses).
- Financial institutions (including banks, currency exchanges, consumer lenders, payday lenders, credit unions, appraisers, title companies, trading and futures exchanges).
- Hardware and supply stores.
- Critical trades (including plumbers, electricians, exterminators, cleaning and janitorial staff for commercial and governmental properties, security staff and others).
- Mail, post, shipping, logistics, pickup and delivery services (including food delivery).
- Educational institutions (to the extent necessary to facilitate distance learning).
- Laundry services.
- Restaurants for consumption off-premises (i.e., pick-up and delivery orders only).
- Sellers of supplies to work from home.
- Sellers of supplies for essential business operations (i.e., computer, audio and video electronics, household appliances, IT and telecom equipment, etc.).
- Transportation.
- Home based care and services.
- Residential facilities and shelters.
- Professional services (including legal, accounting, insurance, and real estate services).
- Day care centers granted an emergency license.
- Manufacture distribution and supply chain for critical products and industries.
- Critical labor union functions.
- Hotels and motels.
- Funeral services.

### **ARE THERE ANY OTHER ESSENTIAL OPERATIONS UNDER THE ORDER?**

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- Healthcare and public operations – individuals may leave their residence to work for or obtain services through healthcare and public health operations, which include: hospitals, clinics, dental offices, pharmacies, public health entities, pharmaceutical, pharmacy, medical device and equipment and biotechnology companies, licensed medical cannabis dispensaries and licensed cannabis cultivation centers, reproductive health care providers, eye care centers, home healthcare services and providers, mental health and substance use providers and other healthcare facilities. The order also specifically includes manufacturers, technicians, logistics, warehouse operators and distributors of medical equipment, personal protective equipment (PPE), medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies, and tissue and paper towel products.
- Human services operations – individuals may leave their residences to work for or obtain services at any human services operations, including any provider funded by the Illinois Department of Human Services, Illinois Department of Children and Family Services, or Medicaid that is providing services to the public and including state-operated, institutional, or community-based settings providing human services to the public. Human services operations include: long-term care facilities, day care homes, group care homes, shelters for adults, seniors, children, and people with developmental disabilities, among other services.
- Essential infrastructure – individuals may leave to provide any services or perform any work necessary to offer, provision, operate, maintain, and repair essential infrastructure. Under the order, essential infrastructure includes food production, distribution, sale, construction, building management and maintenance, airport operations, utilities including water, sewer, and gas, electrical, oil and biofuel refining, roads, highways, railroads, public transit, waste and recycling, internet, video, telecommunications systems.
- Essential government functions – all first responders, emergency management personnel, emergency dispatchers, court personnel, law enforcement, and corrections personnel, hazardous materials responders, child protection and child welfare personnel, housing and shelter personnel, military, and other governmental employees working for or to support essential businesses and operations are categorically exempt from the order.
- CISA List – The order also incorporates by reference the U.S. Department of Homeland Security, Cybersecurity & Infrastructure Security Agency’s March 19, 2020, Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response. The definition of essential business and operations in the order is meant to encompass the workers identified in the memorandum in addition to those described within the order.

### **WHAT ARE “MINIMUM BASIC OPERATIONS?”**

Under the order, minimum basic operations are allowed to continue, provided that employees comply with social distancing requirements while carrying out such operations. The minimum basic operations include:

The minimum necessary activities to maintain the value of the business’s inventory, preserve the condition of the business’s physical plant and equipment, ensure security, process payroll and employee benefits, or for related functions.

The minimum necessary activities to facilitate employees of the business being able to continue to work

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remotely from their residences.

### HOW WILL THE ORDER BE ENFORCED?

The order may be enforced by state and local law enforcement pursuant to Section 7, Section 18, and Section 19 of the Illinois Emergency Management Agency Act, 20 ILCS 3305.

The governor's order will remain in effect until 11:59 p.m. on April 7.

McDonald Hopkins has a team of professionals dedicated to assisting businesses experiencing financial distress as result of the coronavirus. [Click here for a list of articles focused on providing legal and business solutions to the impact of the coronavirus on your business.](#)

If you have questions regarding the Illinois "stay-at-home" order or questions on if your business qualifies as "essential," please contact one of the attorneys listed below.

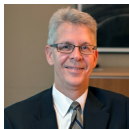
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