

## Resources

### **Executive Order 2020-21: Stay Home Order—What Does This Mean For Your In-Person Operations?**

March 23, 2020

On March 23, 2020, in order to curb the spread of COVID-19 in Michigan, Governor Whitmer issued Executive Order 2020-21 (“EO 2020-21”), which orders all Michigan residents to stay at home or in their place of residence unless exempted until April 13, 2020, at 11:59 p.m. To this end, EO 2020-21 also orders that no person or entity may conduct a business or conduct operations that require workers to leave their homes or residences unless that entity qualifies for an exemption. The issuance of EO 2020-21 poses several questions, such as what activities are prohibited, how long it will be in effect, what businesses are exempted from its restrictions, and much more.

#### **What activities are prohibited?**

All public and private gatherings of any number of people outside of a single household are prohibited. Individuals may leave their homes for certain, limited reasons. Permissible reasons include: to leave as necessary for their health and safety (e.g., to seek medical or dental care), to obtain necessary supplies and services, to engage in outdoor activity, to work as a critical infrastructure worker, to conduct minimum basic operations (described below), to care for family members or vulnerable persons, to attend legal proceedings, or to work or volunteer for certain businesses or operations. When outside their homes, individuals must remain six or more feet from individuals other than household members.

#### **What businesses must suspend their in-person operations?**

Unless specifically exempted, all businesses that require workers to leave their homes must cease in-person operations unless those workers who are required to leave their homes are necessary to sustain or protect life or to conduct minimum basic operations.

EO 2020-21 states that workers necessary to conduct minimum basic operations are those whose in-person presence is “strictly necessary to allow the business or operation to maintain the value of inventory and equipment, care for animals, ensure security, process transactions (including payroll and employee benefits), or facilitate the ability of other workers to work remotely.”

Businesses must determine which of their workers are necessary to conduct minimum basic operations and inform such workers of that designation in writing (email, public website, or other means are acceptable). These designations may be done verbally until March 31, 2020, at 11:59 p.m.

#### **What businesses are carved out from the in-person operational restrictions?**

Any business or operation that employs “critical infrastructure workers” may continue its in-person operations. Even for these businesses, however, any in-person activities that are not necessary to sustain or protect life must be suspended until normal operations resume.

Critical infrastructure workers include workers in the following fields:

- Health care and public health;
- Law enforcement, public safety, and first responders;

- Food and agriculture;
- Energy;
- Water, wastewater, and other public works;
- Transportation and logistics;
- Media and other communications and information technology;
- Critical manufacturing;
- Hazardous materials;
- Financial services;
- Chemical supply chains and safety;
- Defense industrial base;
- Child care workers;
- Designated suppliers and distributions centers (see below);
- Insurance industry (to the extent their work cannot be done by telephone or remotely);
- Certain volunteer workers related to economically disadvantaged or needy individuals; and
- Certain critical labor union functions.

For additional critical infrastructure workers, see Memorandum On Identification Of Essential Critical Infrastructure Workers During Covid-19 Response.

### **If your business is allowed to continue in-person operations, what else do you need to do?**

- Designate your “critical infrastructure workers” and inform them as required;
- Restrict the number of workers on premises to those strictly necessary;
- Promote remote work to the extent possible;
- Enforce social distancing to the extent possible (e.g., keep everyone at least six feet away from each other);
- Increase cleaning standards and disinfecting protocols and adopt protocols for cleaning and disinfecting in the event of a positive COVID-19 case in the workplace;
- Adopt policies to prevent workers from entering your premises if they display any respiratory symptoms or have had contact with someone who is known or suspected to have COVID-19; and
- Adopt any other social distancing practices and mitigation measures recommended by the Centers for Disease Control and Prevention.

### **Can suppliers or distributors remain operational?**

A business or operation that employs critical infrastructure workers may designate suppliers, distribution centers, or service providers whose continued operation is necessary to enable, support, or facilitate the work of that business’s critical infrastructure workers. Those designated suppliers, distribution centers, or service providers may designate workers as “critical infrastructure workers” only to the extent those workers are necessary to enable, support, or facilitate the original operation’s critical infrastructure workers. The designated supplier, distribution center, or service provider may, in turn, designate additional suppliers, distribution centers, or service providers necessary to enable, support, or facilitate their critical infrastructure workers.

Businesses, operations, suppliers, distribution centers, and service providers must make all designations in writing to the entities they are designating. Verbal designations may be made until March 31, 2020, at 11:59 p.m.

EO 2020-21 also states that any abuse of these designations is subject to sanctions to the fullest extent of the law.

### **How long are these restrictions in place?**

EO 2020-21 is effective March 24, 2020, at 12:01 a.m. until April 13, 2020, at 11:59 p.m. Governor Whitmer will continue to evaluate the need for this order prior to its expiration and may modify it as needed.

A full copy of EO 2020-21 can be found [here](#).

If you have any questions about this executive order, please contact one of the lawyers listed in the sidebar or your Dykema relationship attorney.

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