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GUIDANCE FOR DETERMINING WHETHER A BUSINESS ENTERPRISE IS SUBJECT TO A WORKFORCE REDUCTION UNDER RECENT EXECUTIVE ORDERS

(enacted to address the COVID-19 Outbreak)

Please review our Frequently Asked Questions [here](#).

UPDATED: MARCH 27, 2020 at 11:00 AM

ESSENTIAL BUSINESSES OR ENTITIES, including any for profit or non-profit, regardless of the nature of the service, the function they perform, or its corporate or entity structure, are not subject to the in-person restriction. *Essential Businesses must continue to comply with the guidance and directives for maintaining a clean and safe work environment issued by the Department of Health and every business, even if essential, is strongly urged to maintain social distance to the extent possible.*

This guidance is issued by the New York State Department of Economic Development d/b/a Empire State Development and applies to each business location individually and is intended to assist businesses in determining whether they are an essential business. With respect to business or entities that operate or provide both essential and non-essential services, supplies or support, only those lines and/or business operations that are necessary to support the essential services, supplies, or support are exempt from the workforce reduction restrictions.

For purposes of Executive Order 202.6, “Essential Business,” means businesses operating in or as:

1. Essential health care operations including

- research and laboratory services
- hospitals
- walk-in-care health clinics and facilities
- emergency veterinary, livestock services
- senior/elder care
- medical wholesale and distribution
- home health care workers or aides for the elderly
- doctor and emergency dental
- nursing homes, or residential health care facilities or congregate care facilities
- medical supplies and equipment manufacturers and providers
- licensed mental health providers
- licensed substance abuse treatment providers
- medical billing support personnel

2. Essential infrastructure including

- public and private utilities including but not limited to power generation, fuel supply and transmission
- public water and wastewater
- telecommunications and data centers
- airports/airlines
- commercial shipping vessels/ports and seaports
- transportation infrastructure such as bus, rail, for-hire vehicles, garages
- hotels, and places of accommodation

3. Essential manufacturing including

- food processing, manufacturing agents, including all foods and beverages
- chemicals
- medical equipment/instruments
- pharmaceuticals
- sanitary products including personal care products regulated by the Food and Drug Administration
- telecommunications
- microelectronics/semi-conductor
- food-producing agriculture/farms
- household paper products
- defense industry and the transportation infrastructure

4. Essential retail including

- grocery stores including all food and beverage stores
- pharmacies
- convenience stores
- farmer's markets
- gas stations
- restaurants/bars (but only for take-out/delivery)
- hardware, appliance and building material stores
- pet food

5. Essential services including

- trash and recycling collection, processing and disposal
- mail and shipping services
- laundromats and other clothing/fabric cleaning services
- building cleaning and maintenance
- child care services
- bicycle repair
- auto repair
- automotive sales conducted remotely or electronically, with in-person vehicle return and delivery by appointment only
- warehouse/distribution and fulfillment
- funeral homes, crematoriums and cemeteries
- storage for essential businesses

- maintenance for the infrastructure of the facility or to maintain or safeguard materials or products therein
- animal shelters/ and animal care

6. News media

7. Financial Institutions including

- banks or lending institution
- insurance
- payroll
- accounting
- services related to financial markets

8. Providers of basic necessities to economically disadvantaged populations including

- homeless shelters and congregate care facilities
- food banks
- human services providers whose function includes the direct care of patients in state-licensed or funded voluntary programs; the care, protection, custody and oversight of individuals both in the community and in state-licensed residential facilities; those operating community shelters and other critical human services agencies providing direct care or support

9. Construction

- All non-essential construction must shut down except emergency construction, (e.g. a project necessary to protect health and safety of the occupants, or to continue a project if it would be unsafe to allow to remain undone until it is safe to shut the site).
- Essential construction may continue and includes roads, bridges, transit facilities, utilities, hospitals or health care facilities, affordable housing, and homeless shelters. At every site, if essential or emergency non-essential construction, this includes maintaining social distance, including for purposes of elevators/meals/entry and exit. Sites that cannot maintain distance and safety best practices must close and enforcement will be provided by the state in coordination with the city/local governments. This will include fines of up to \$10,000 per violation.
- For purposes of this section construction work does not include a single worker, who is the sole employee/worker on a job site.

10. Defense

- defense and national security-related operations supporting the U.S. Government or a contractor to the US government

11. Essential services necessary to maintain the safety, sanitation and essential operations of residences or other businesses including

- law enforcement, including corrections and community supervision

- fire prevention and response
- building code enforcement
- security
- emergency management and response, EMS and 911 dispatch
- building cleaners or janitors
- general maintenance whether employed by the entity directly or a vendor
- automotive repair
- disinfection
- residential moving services

12. Vendors that provide essential services or products, including logistics and technology support, child care and services including but not limited to:

- logistics
- technology support for online services
- child care programs and services
- government owned or leased buildings
- essential government services
- any personnel necessary for on-line or distance learning or classes delivered via remote means

Houses of worship are not ordered closed however it is strongly recommended not to hold congregate services. If held, social distance must be maintained and compliance with DOH guidance, which can be found at <https://coronavirus.health.ny.gov/information-providers>.

If the function of your business is not listed above, but you believe that it is essential or it is an entity providing essential services or functions, you may request designation as an essential business.

Requests by businesses to be designated an essential function as described above, should only be made if they are NOT covered by the guidance.

To request designation as an essential business, please [click here](#).

Restrictions on requesting designation as an essential business:

Businesses ordered to close on Monday, March 15, 2020 under the restrictions on any gathering with 50 or more participants, including but not limited to, bars, restaurants, gyms, movie theaters, casinos, auditoriums, concerts, conferences, worship services, sporting events, and physical fitness centers, are presumed to be compliant with NYS issued restrictions and must remain closed and are not eligible for designation as an essential business for purposes of this guidance.

For Guidance on cleaning and disinfection of facilities, refer to the New York State Department of Health Interim Guidance for Cleaning and Disinfection of Public and Private Facilities for COVID -19 at https://coronavirus.health.ny.gov/system/files/documents/2020/03/cleaning_guidance_general_building.pdf.

For further information: New York State Department of Health's COVID-19 Webpage <https://coronavirus.health.ny.gov/home>

Center for Disease Control and Prevention Webpage: <https://www.cdc.gov/coronavirus/2019-ncov/>

Local health department contact information can be found at: https://www.health.ny.gov/contact/contact_information/index.htm

Frequently Asked Questions

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