



**UPDATE: NEW YORK STATE COVID-19 EMERGENCY ORDERS  
AND GUIDANCE AS OF MARCH 19, 2020**

**March 20, 2020**

**By: Jessica M. Baquet**

Yesterday, Governor Cuomo signed Executive Order 202.7, which provides new mandates regarding the operation of non-essential businesses and new rules permitting the notarization of documents by videoconference. Additionally, the Empire State Development Corporation released guidance on determining which businesses are considered essential.

***Limitations on Non-Essential Business Operations***

Under Executive Order 202.7, non-essential businesses and not-for-profits are required to keep 75% of their workforce at home beginning no later than 8:00 p.m. on March 21, 2020. Employers are directed to permit employees to telecommute or work from home to the extent possible. This Executive Order modifies Executive Order 202.6, which was issued by the Governor on March 18, 2020, and required non-essential businesses and not-for-profits to keep 50% of their workforce at home.

Late last night, the Empire State Development Corporation also issued guidance designed to help businesses determine whether they are essential and, therefore, exempt from the in-person workforce limitations of Executive Order 202.7. The guidance indicates that:

- Essential health care operations include:
  - Research and laboratory services
  - Hospitals
  - Walk-in-care health facilities
  - Veterinary and animal health services
  - Elder care
  - Medical wholesale and distribution
  - Home health care workers or aides
  - Doctor and dentist offices
  - Nursing homes or residential health care facilities or congregate care facilities
  - Medical supplies and equipment providers
  
- Essential infrastructure includes:
  - Utilities including power generation, fuel supply and transmission
  - Public water and wastewater
  - Telecommunications and data centers
  - Airports/airlines
  - Transportation infrastructure such as bus, rail or for-hire vehicles, garages

- Essential manufacturing includes:
  - Food processing, including all foods and beverages
  - Chemicals
  - Medical equipment/instruments
  - Pharmaceuticals
  - Safety and sanitary products
  - Telecommunications
  - Microelectronics/semi-conductor
  - Agriculture/farms
  - Paper products
  
- Essential retail includes:
  - 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 and building material stores
  
- Essential services include:
  - Trash and recycling collection, processing and disposal
  - Mail and shipping services
  - Laundromats/dry cleaning
  - Building cleaning and maintenance
  - Child care services
  - Auto repair
  - Warehouse/distribution and fulfillment
  - Funeral homes, crematoriums and cemeteries
  - Storage for essential businesses
  - Animal shelters or animal care or management
  
- Financial services includes:
  - Banks
  - Insurance
  - Payroll
  - Accounting
  
- News media
  
- Providers of basic necessities to disadvantaged populations includes:
  - 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

- Construction includes:
  - Skilled trades or plumbers
  - Other related construction firms and professionals for essential infrastructure or for emergency repair and safety purposes
- Defense includes defense and national security-related operations supporting the U.S. Government or a contractor to the U.S. government
- Essential services necessary to maintain the safety, sanitation and essential operations of residences or other essential businesses includes:
  - Law enforcement
  - Fire prevention and response
  - Building code enforcement
  - Security
  - Emergency management and response
  - Building cleaners and janitors
  - General maintenance whether employed by the entity directly or a vendor
  - Automotive repair
  - Disinfection
  - Doormen
- Vendors that provide essential services or products, including logistics and technology support, child care and services needed to ensure the continuing operation of government agencies and provide for the health, safety and welfare of the public including:
  - Logistics
  - Technology support
  - Child care programs and services
  - Government owned or leased buildings
  - Essential government services

If a business does not fall into one of these categories but believes it is essential, it can apply to the Empire State Development Corporation (ESDC) to be designated as an essential business. To apply, businesses must complete a form available on ESDC's website and e-mail it to [covid19designations@esd.ny.gov](mailto:covid19designations@esd.ny.gov). The form is available at:

[https://esd.ny.gov/sites/default/files/Request%20for%20Designation%20Form\\_0.pdf](https://esd.ny.gov/sites/default/files/Request%20for%20Designation%20Form_0.pdf)

Businesses that fall within one of the categories contained in the guidance **need not** apply for designation.

If you need assistance in interpreting the provisions of Executive Order 202.7 or ESDC's guidance, please contact Jessica M. Baquet, the Chair of our Labor and Employment practice group, at (516) 393-8292 or [jbaquet@jaspanllp.com](mailto:jbaquet@jaspanllp.com).