



Client alert

March 2020



UPDATED: Summary of Texas Stay Home Orders

Harris County Judge Lina Hidalgo issued a ["Stay Home, Work Safe" Order](#) taking effect at 11:59 p.m. on March 24, 2020. The order requires residents to remain inside except for "Essential Activities," and requires non-essential businesses close their facilities. "Essential Activities" includes activities related to health and safety, but also allows people to shop for household consumer products and supplies needed to work from home, and to "perform work providing essential products and services at an Essential Business." In enumerating the Essential Businesses allowed to remain open, the Harris County order incorporates the 16 ["Essential Critical Infrastructure"](#) sectors identified by the National Cybersecurity and Infrastructure Agency (CISA) as "Essential Businesses."

As noted in our previous [client alert](#), the CISA guidance considers a broad range of electricity, petroleum, natural and propane gas, and chemical workers as critical infrastructure. In effect, the entire supply chain for energy-related industries is deemed essential. Further, any operations that are "necessary for the manufacturing of materials and products" demanded by the energy or chemical manufacturing supply chains are also exempt from closure.

In addition to energy industry operations and other essential critical infrastructure work, the Harris County order also considers the following operations, which are not exhaustive, to be "Essential Businesses":

- essential healthcare operations;
- essential retail;
- activities of the National Aeronautics and Space Administration (NASA);

- activities of the Port of Houston;
- professional services assisting in compliance with legally mandated activities or servicing Essential Business, Government, or Critical Infrastructure entities, such as legal, accounting, insurance, and real estate services;
- construction and transportation functions, which are broadly defined as essential; and
- airports and airline operations, along with the hotels that serve Essential Businesses.

The "Essential Retail" list is similar to those listed in other orders that have been issued across the state, providing that retailers offering, among other things, food products and household staples, food production, shipping or delivery services, to-go food, laundry or dry cleaning services, automobile supplies and repairs, and products for those working remotely are exempt from the closure order.

Essential Businesses that remain in operation must comply with "infection control precautions," including:

- ensuring all individuals, including both employees and the general public, keep a 6 foot distance apart;
- providing access to hand washing facilities with soap and water or hand sanitizer with at least 60% alcohol;
- posting signage barring entry for those suffering from symptoms of a respiratory illness (including a fever or cough); and
- adhere to other general communicable disease control recommendations by public health authorities.

Further, the order exempts closure of childcare facilities which provide services to enable other exempted employees to work in accordance with the order. Essential Businesses should also consider posting the Harris County order on their premises and making copies of it available to the public.

Any industry or business not fitting in the categories set forth in the order can seek an exemption from the order by submitting an application form and evidence that continuing operations is "essential to promoting the general welfare of the residents of Harris County and the State of Texas." Businesses that retool their operations to fit the "Essential Business" criteria can also submit an application for exemption. This application can be found at www.ReadyHarris.org, according to the order, although it does not appear to be immediately available.

The Harris County order requires that all persons who are sick or experiencing COVID-19 symptoms or who reside in a household with an individual that tested positive for the virus are required to stay home.

The Harris County order expires at 11:59 p.m. on April 3, 2020.

Fort Bend County Judge KP George issued a "[Stay Home to Save Lives](#)" Order taking effect at 12:01 a.m. on March 25, 2020. The order requires residents to remain inside except for "Essential Activities," and requires non-essential businesses close their facilities. "Essential Activities" includes activities related to health and safety, but also allows people to shop for household consumer products and supplies needed to work from home, and to "perform work providing essential products and services at an Essential Business." In enumerating the Essential Businesses allowed to remain open, the Fort Bend County order incorporates the 16 "[Essential Critical Infrastructure](#)" sectors identified by the National Cybersecurity and Infrastructure Agency (CISA) as "Essential Businesses."

As noted in our previous [client alert](#), the CISA guidance considers a broad range of electricity, petroleum, natural and propane gas, and chemical workers as critical infrastructure. In effect, the entire supply chain for energy-related industries is deemed essential. Further, any operations that are "necessary for the manufacturing of materials and products" demanded by the energy or chemical manufacturing supply chains are also exempt from closure.

The "Essential Retail" list is similar to those listed in other orders that have been issued across the

state, providing that retailers offering food products and household staples, food production, shipping or delivery services, to-go food, laundry or dry cleaning services, automobile supplies and repairs, and products for those working remotely are exempt from the closure order.

Similar to Harris County, the Essential Businesses that remain in operation must also as reasonably as possible follow Social Distancing of at least six feet and take other measures in accordance with current CDC guidelines.

The Fort Bend County order expires at 11:59 p.m. on April 3, 2020.

Galveston County Judge Mark Henry issued a shelter-in-place order for Galveston County which took effect on March 23, 2020, at 11:59 pm. Pursuant to such order, all individuals currently living within the county are ordered to remain at their place of residence (including hotels, motels, shared rentals, etc.), and all businesses are required to cease operations with the exception of those deemed "Essential Businesses" or "Essential Critical Infrastructure." These categories are nearly identical to the Dallas County order; all 16 "[Essential Critical Infrastructure](#)" sectors identified by the National Cybersecurity and Infrastructure Agency (CISA) are incorporated, as well as the same broad list of "Essential Health Care Services" and "Essential Retail." Further, the order exempts closure of childcare facilities which provide services to enable other exempted employees to work in accordance with the order.

Businesses which qualify for exemption are required, to the greatest extent possible, to comply with social distancing guidelines, including maintaining six foot social distancing for employees and the general public.

The Galveston County order remains in effect until April 3, 2020.

Collin County Judge Chris Hill issued a shelter-in-place order for Collin County, which took effect immediately on March 24, 2020, and will remain in place for a period of 7 days. Under the order, all persons in Collin County are ordered to stay home while not engaged in essential activities. The order notes that all businesses, jobs, and workers are essential to the financial health of the county and to its citizens' well-being. However, the order clarifies that entertainment activities are not considered essential activities.

The order requires that all persons who are sick or experiencing COVID-19 symptoms or who reside in a household with an individual that tested positive for the virus are required to stay home. Finally, all persons who are believed to be at higher risk of infection are required to stay home. The order does not prevent Collin County citizens from leaving their home to seek necessary and medical or emergency care.

In line with many other orders, businesses that remain open must respect social distancing norms and provide a safe and healthy environment for their workers.

Tarrant County Judge B. Glen Whitely issued a "[Stay at Home](#)" Order on March 24, 2020, requiring all businesses to close, except those deemed "Essential Businesses" or "Essential Critical Infrastructure." These categories are nearly identical to the Dallas County order: all 16 "[Essential Critical Infrastructure](#)" sectors identified by the National Cybersecurity and Infrastructure Agency (CISA) are incorporated, as well as the same broad list of "Essential Health Care Services" and "Essential Retail." The only substantive addition is an exemption for hotels, motels, and shared rental units.

One notable departure is that, as long as social distancing is practiced, non-essential businesses are allowed to maintain "Minimum Basic Operations." These activities include:

- payroll and employee benefits;
- security;

- property upkeep and maintenance of premises, equipment, or inventory;
- IT or other functions that facilitate remote work; and
- online or call-in sales and in-store repair services, as long as all facilities remain closed to the public.

The Tarrant County order remains in effect until April 7, 2020.

Dallas County As summarized in a prior [client alert](#), Dallas County, Tarrant County and Travis County have all specifically ordered that six-foot social distancing precautions should be taken, even in private settings or at work. Ensuring adequate space for employees and the general public to comply with this order is also advisable. This is also in-line with the CISA's recommendations, which encourage essential operations to utilize remote working setups as frequently as possible and, where remote work is not possible, to stagger shifts in order to limit direct interaction.

In counties where a shelter-in-place order is in effect, such as Dallas County, businesses may consider issuing written letters to employees who will be required to travel to and from work at an essential business. These letters should identify the employee as necessary to operations, and cite the provisions of the various orders that might apply to the business. Travel Letters can help explain the situation to employees and provide peace of mind during such a confusing time. Large operations, such as construction projects, refineries or petrochemical plants, may consider providing notice to local authorities that they are remaining open in accordance with the applicable orders. Dallas County's order also suggests that impacted businesses post the order and make copies available upon request.

Trends Across Texas County Orders

The majority of the orders above also contain some form of the following provisions:

- Businesses which support other essential business or work-from home business are exempted (e.g., child care).
- Employers likely to be impacted are encouraged to post a copy of this order onsite and provide copies to the public.
- Homeless individuals and those who participate in permitted outdoor activities should continue to practice social distancing.

The orders differ on enforcement, but nearly all instruct that noncompliance could be punished by a fine of up to USD 1,000 and 180 days imprisonment.

Baker McKenzie has put together a global resource center for all key insights and upcoming webinars as a central repository to assist our clients understand, prepare and respond quickly to the significant legal and business challenges posed by COVID-19. Please use the following link to visit the [Coronavirus Resource Center](#) for additional resources. Baker McKenzie understands that these times are challenging for all our clients and we want to assure you we are here to assist.

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