

COVID-19

CORONAVIRUS: STAY-AT-HOME ORDERS

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Foulston has produced a series of issue alerts as we continue to monitor the evolving COVID-19 situation and provide additional guidance. Please find all updates and our latest resources available [here](#).

Numerous cities and counties in the Kansas City metropolitan area have issued “stay-at-home” orders that take effect early Tuesday morning, March 24, 2020 and will remain in effect for 30 days. These orders will go into place in Douglas County, Kansas; Johnson County, Kansas; Leavenworth County, Kansas; Wyandotte County, Kansas; Clay County, Missouri; Jackson County, Missouri; Platte County, Missouri; and Kansas City, Missouri. This is not an all-inclusive list, as new orders are being issued frequently; it’s essential to check your local government’s website and our latest available resources.

The recent orders are intended to help protect the health and safety of residents by slowing the rate of community spread of COVID-19 or “flattening the curve.” They direct residents to stay home except for essential activities and to practice social distancing. The orders require businesses to cease in-person operations, unless they qualify as “essential businesses.” Generally, only these essential businesses may remain open. In some jurisdictions, nonessential businesses may be able to carry out certain minimum basic operations.

Read on to (1) better understand whether your business will qualify as an “essential business” and (2) develop a comprehensive strategy for complying with the stay-at-home orders.

ASSESS WHETHER YOUR BUSINESS CAN REMAIN OPEN

The stay-at home orders take effect on Tuesday, March 24th, so the first step your business should take is to quickly evaluate whether it will qualify as essential under the relevant jurisdiction’s order and whether it will be able to remain open.

Generally, the orders allow the following businesses to remain open:

- Healthcare operations

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- Essential infrastructure
- Essential government functions
- Grocery stores and other establishments engaged in the retail sale of food and household consumer products
- Food cultivation, including farming, livestock, and fishing
- Food processing facilities
- Businesses that provide food, shelter, and social services, and other necessities for economically disadvantaged or otherwise needy individuals
- Newspapers, television, radio, and other media services
- Gas stations and related facilities
- Banks and related financial institutions
- Hardware stores
- Plumbers, electricians, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, Essential Activities, and Essential Businesses
- Businesses providing mailing and shipping services
- Education institutions, with restrictions
- Laundromats, dry cleaners, and laundry service providers
- Restaurants, with restrictions (delivery or carry out only)
- Businesses that supply products needed for people to work from home
- Businesses that supply other Essential Businesses with the support or supplies necessary to operate
- Transportation providers, with restrictions
- Home-based care, residential facilities, and shelters
- Professional services, such as legal services
- Childcare facilities, with restrictions

Counties and cities have adopted different stay-at-home orders, so it is imperative that businesses review the specific language adopted by their jurisdiction before deciding to remain open. For example, the Johnson County, Kansas order explicitly lists real estate and insurance services as essential businesses, while the Kansas City, Missouri order does not (although these businesses may still qualify as essential depending on their specific operations). Nonessential businesses that remain open may face fines for failing to follow the orders. If you are unsure whether your business will be allowed to remain open, an attorney can assist you.

DEVELOP A COMPREHENSIVE STRATEGY

Even if your business is deemed essential, you should evaluate the practical effects of remaining open. You should consider the health and safety of your employees, possible public backlash if you stay open, and the individual needs of your business.

If your business remains open, some jurisdictions require following proactive social distancing measures including:

- Designating six-foot spacing for employees and customers in line
- Providing hand sanitizer and sanitizing products for employees and customers
- Implementing separate operating hours for elderly and vulnerable customers
- Posting online whether your facility is open and how best to reach the facility

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All businesses should consider developing a communication strategy. Your employees will assuredly have questions regarding the effect of the stay-at-home orders. Legal counsel can help you draft notices to your employees to communicate your business's path forward.

The stay-at-home orders listed above do not currently require any documentation of your business's "essential" status, however, if your business is planning on remaining open, you should consider supplying managers or employees with a letter to public officials identifying the business's status as "essential" under the order. Legal counsel can also help you draft these letters.

NAVIGATING THE STAY-AT-HOME ORDERS

The legal landscape is rapidly evolving as cities, counties, states, and nations respond to COVID-19. Businesses should remain apprised of these changes, as well as the practical concerns of their workforce. If you have questions about the recent stay-at-home orders, you should contact knowledgeable legal counsel for guidance navigating your obligations under the orders.

FOR MORE INFORMATION

If you have questions or want more information regarding essential service providers affected by COVID-19, contact your legal counsel. If you do not have regular counsel for such matters, Foulston Siefkin LLP would welcome the opportunity to work with you to meet your specific business needs. Foulston's employment and labor lawyers maintain a high level of expertise regarding federal and state regulations affecting employers. At the same time, Foulston's other practice groups, including the taxation, general business, healthcare, and litigation groups enhance our ability to consider the legal ramifications of these situations. For more information, contact **Vaughn Burkholder**, 913.253.2133 or vburkholder@foulston.com, or **Sarah Otto**, 913.253.2195 or sotto@foulston.com. For more information on the firm, please visit our website at www.foulston.com.

Established in 1919, Foulston Siefkin is the largest law firm in Kansas. With offices in Wichita, Kansas City, and Topeka, Foulston provides a full range of legal services to clients in the areas of administrative & regulatory; antitrust & trade regulation; appellate law; banking & financial services; business & corporate; construction; creditors' rights & bankruptcy; e-commerce; education & public entity; elder law; emerging small business; employee benefits & ERISA; employment & labor; energy; environmental; ERISA litigation; estate planning & probate; family business enterprise; franchise & distribution; government investigations & white collar defense; governmental liability; government relations & public policy; healthcare; immigration; insurance regulatory; intellectual property; litigation & disputes; long-term care; mediation/dispute resolution; mergers & acquisitions; Native American law; oil, gas & minerals; OSHA; privacy & data security; private equity & venture capital; product liability; professional malpractice; real estate; securities & corporate finance; supply chain management; tax exempt organizations; taxation; trade secret & noncompete litigation; water rights; and wind & solar energy.

RESOURCES

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