



Understanding Ohio's Stay at Home Order

March 23, 2020

On March 22, 2020, Governor Mike DeWine explained that Ohio Department of Health Director Amy Acton signed a Health Director's order he referred to as a "stay at home" order. Other states have called similar orders "shelter in place orders," but they are essentially the same.

The Director's Order takes effect at 11:59 PM March 23, 2020 and is in effect until 11:59 PM on April 6, 2020.

The order is designed to keep as many people in their homes as possible to prevent further spread of COVID-19, while permitting essential businesses and services to continue operation.

Generally, the order requires individuals to stay in their homes unless they are leaving for essential activities, essential government functions, or perform essential businesses and operations.

Essential activities are defined as:

- Travel to obtain basic necessities (food, medicine, household goods, supplies for working at home, etc.)
- Travel to obtain medical care
- Travel to care for another



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- Travel to work if deemed an essential employee of an essential business or operation
- Travel to outdoor activity such as walking, hiking, running, biking, etc., however, playgrounds are closed

The order strongly encourages all Ohioans to utilize adequate social distancing, keeping six feet distance.

Essential businesses and operations

The Director's Order requires all non-essential business operations to cease. However, it permits working from home and "minimum basic operations." Minimum basic operations include the minimum necessary activities to maintain the value of a businesses' inventory, preserve the businesses' physical plant or equipment, provide security, process payroll and benefits, or other related functions. It also permits the minimum necessary activities to facilitate employees to work remotely from home.

The United States Department of Homeland Security Cybersecurity and Infrastructure Security Agency (CISA) issued guidelines^[1] on what may constitute critical infrastructure sectors and essential employees. Some states with shelter in place orders in effect elected to incorporate by reference the CISA guidance. Other states attempted to create their own lists. Ohio, similar to Illinois, used the CISA guidance as a baseline and added additional sectors and industries.

The order identifies essential businesses and operations and encourages those to remain open with only essential employees and comply with social distancing to the greatest extent feasible.

Identified sectors

Health care

The order broadly identifies health care and public health operations. It includes hospitals, clinics, dental offices, pharmacies, medical device companies and more. It also specifically mentions manufacturers, technicians, logistics and warehouse operators and distributors of medical equipment, personal protective equipment (PPE), medical gases, etc. The order says that the definition of healthcare is to be construed broadly so as to avoid any impacts to the delivery of healthcare.

Essential infrastructure

Essential infrastructure includes, but is not limited to, food production, distribution, fulfillment centers, storage facilities, construction (including but not limited to construction related to the public health emergency, hospitals, schools, public works and essential business construction), building management and maintenance, solid waste and recycling collection, operation and maintenance of utilities, etc.

Essential government functions



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The Order includes as essential government functions first responders, law enforcement, emergency management personnel, legislators, judges, court personnel, jurors and military. The Order also includes all services provided by the state and all political subdivisions of the state necessary to ensure the continuing operation of government. Local governments are permitted to determine what constitutes essential for their own operations.

Essential businesses and operations

The CISA guidance is incorporated by reference and all businesses, operations, and employees described in the CISA guidance are included as essential in the Director's Order. The Order then goes on to expand beyond the CISA guidance.

Stores that sell groceries and medicine and household consumer products are included as essential. This includes businesses that are part of the supply chain and provide administrative support operations.

Food, beverage and licensed marijuana production and agriculture are identified as essential. Included are all aspects of food and beverage manufacturing, production, processing and cultivation, including farming, livestock, fishing, baking, etc.

Gas stations and businesses needed for transportation, such as auto supply and construction equipment.

Financial and insurance institutions are included. Institutions include banks, credit unions, consumer lenders, title companies, insurance companies, brokers and related insurance claims and agency services.

Mail, logistics, shipping, and delivery services can continue as essential, which will help preserve supply lines and deliveries for all essential businesses.

Schools and universities can continue operations for facilitating distance learning, perform critical research or essential functions. The Governor also announced that the legislature will address state mandated testing for the year given the closure of schools due to COVID-19.

A key aspect of the order permits businesses to continue operations if they sell, manufacture, or supply other essential businesses and services with the support or materials necessary to maintain operations.

Professional services including legal services and accounting services can continue operations.

Manufacturing, distribution and supply chain companies that produce and supply critical products to industries including pharmaceutical, technology, biotechnology, healthcare, chemicals and sanitation, agriculture, food and beverage, transportation, energy, etc. The Order also includes companies that manufacture, distribute or are part of the supply chain products for other essential businesses and operations as

identified by the Order.

Also included are hardware and supply stores, the critical trades, restaurants (for carryout, delivery, or drive through service only), businesses that sell supplies that enable people to work from home and transportation services (public transit, Lyft, Uber, taxis).

Enforcement and additional guidance

The Order will be enforced by local departments of health and local law enforcement. As mentioned above, the Order takes effect at 11:59 PM March 23, 2020 and expires on April 6, 2020. Local health departments are empowered to answer questions in writing related to the Director's Order.

The Director's Order requires essential businesses and operations and businesses engaged in Minimum Basic Operations to observe social distancing by:

- Designate six feet distances with signage, tape, or by other means.
- Provide hand sanitizer and sanitizing products.
- Separate operating hours for at-risk populations.
- Provide information online noting whether the facility is open and how best to reach the facility and continue services by phone or remotely.

Also provided is a social distancing checklist for businesses and employers:

- Permit as many employees as possible to work remotely.
- Actively encourage sick employees to stay home until they are free of fever (without medication) for at least 72 hours and symptoms have improved for at least 72 hours and at least 7 days have passed since symptoms first began.
- Ensure sick leave policies are up to date.
- Separate employees who have acute respiratory illness symptoms.
- Reinforce messaging on cough and sneeze etiquette, staying home when ill, and good hand hygiene.
- Frequently perform cleaning of commonly touched surfaces.
- Be prepared to change business practices to maintain critical operations.

Conclusion

The Stay at Home Order issued by Director Acton echoes much of the advice that Governor DeWine has issued since the state first began taking action to address the COVID-19 pandemic. The Governor said during his press conference announcing the Order that it contains nothing that he had not already been asking Ohioans and businesses to do.

^[1] <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>

