

March 23, 2020

Benesch COVID-19 Resource Center: Construction Activities Exempt from Ohio's "Stay At Home" Order – But Use Common Sense

Client Bulletins

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The Director of the Ohio Department of Health issued a "Stay at Home" Order on Sunday, March 22, 2020. While that Order mandates that Ohio residents stay home and that non-essential businesses and operations cease, it contains a broad exemption for construction activities.

Specifically, the Order states that individuals may leave their residence to provide services for Essential Infrastructure. This terms includes "but is not limited to: construction . . .". That section of the Order then provides a non-exhaustive list of specific types of construction deemed essential and includes virtually every variety of commercial, residential, and public projects. The Order also requires the definition of "Essential Infrastructure" to be "construed broadly to avoid any impacts to essential infrastructure, broadly defined."

In addition, the following specific "Critical Trades" are exempted from the Order:

Building and Construction Tradesmen and Tradeswomen, and other trades including but not limited to plumbers, electricians, exterminators, cleaning and janitorial staff for commercial and governmental properties, security staff, operating engineers, HVAC, painting, moving and relocation services, 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 and Operations.

Presumably, these individual trades are listed separately from the general construction exemption to allow owners (such as hospitals, long-term care facilities, and others in the front-line of the COVID-19 outbreak) to hire these Critical Trades as part of the effort to fight the pandemic.

The Order also broadly exempts "professional services," which by definition would include architects, engineers, and construction managers.

While it appears for the time being that the Order will not impede construction projects, everyone should, when practical, heed the Order's overall intent: "to ensure that the maximum number of people self-isolate in their places of residence to the maximum extent feasible, while enabling essential services to continue, to slow the spread of COVID-19 to the greatest extent possible."

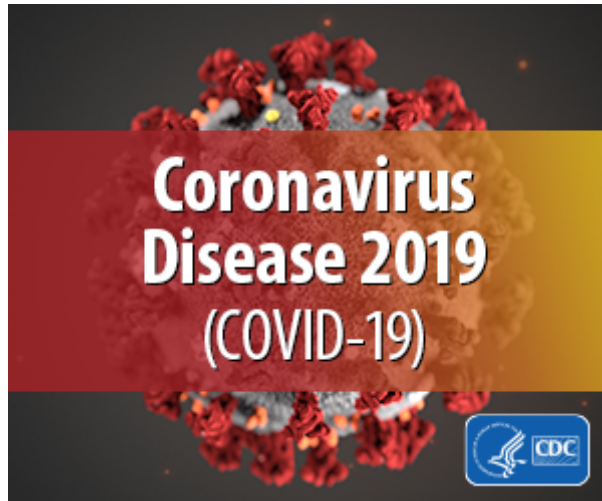
All construction industry businesses, when sending workers into the field, should comply with social distancing requirements, including maintaining at least six-foot distance from others, washing hands with soap and water for at least 20 seconds as frequently as possible or using hand sanitizer, covering coughs or sneezes, regularly cleaning high-touch surfaces, not shaking hands, and staying home if symptomatic. Indeed, everyone should work from home if possible, even if exempted.

If you have any questions, please contact a member of Benesch's Construction Practice Group.

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Please note that this information is current as of the date of this Client Alert, based on the available data. However, because COVID-19's status and updates related to the same are ongoing, we recommend real-time review of guidance distributed by the CDC and local officials.



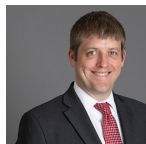
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