

March 22, 2020

Connecticut Department of Economic and Community Development Issues Guidance For Determining Which Businesses Are "Essential" under Connecticut's COVID-19 "Work from Home" Executive Order

On Sunday, March 22, as required by Governor Lamont's [Executive Order 7H](#) (Executive Order) dated March 20, which Executive Order was supplemented by [Executive Order 7J](#) dated March 22, the Connecticut Department of Economic and Community Development (DECD) issued guidance entitled "[Business Exemptions for Coronavirus - Executive Order 7H](#)" concerning which businesses and nonprofit entities are deemed "Essential Businesses" for purposes of the Executive Order. ***Under the Executive Order, non-essential business or not-for-profit entities are required to reduce their in-person workforces at any workplace locations by 100 percent no later than March 23 at 8:00 p.m.***

Businesses and not-for-profits falling within categories designated as Essential Businesses in the DECD guidance are not subject to the in-person restrictions set forth in the Executive Order. Since the restrictions in the Executive Order applies to *places of business*, non-essential businesses may continue activities that are conducted off-site (e.g. a customer's home) and/or by telecommuting or working from home. The Executive Order directs businesses to employ, to the maximum extent possible, any telecommuting or work from home procedures that they can safely utilize.

Pursuant to Governor Lamont's Executive Order 7J and the DECD guidance: (i) non-essential retailers may be staffed on-site, provided that they may only offer remote ordering (e.g. phone, internet, mail, dropbox) and curb-side pick-up or delivery (ii) non-essential businesses and nonprofits to allow staff or third parties on site to the minimum extent necessary to provide security, maintenance and receipt of mail and packages. This includes but is not limited to auto, boat, bicycle, recreational vehicle, and all other vehicle sales, if conducted remotely.

For purposes of the Executive Order, the DECD guidance provides that "Essential Business" means:

Essential workers in the [16 Critical Infrastructure Sectors](#), as defined by the Federal Department of Homeland Security, unless otherwise addressed in a prior or future executive order pertaining to the existing declared public health and civil preparedness emergency. On March 19, 2020, the Cybersecurity and Infrastructure Security Agency (CISA) developed a [Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response](#), which identifies workers who conduct a range of operations and services that are essential to continued critical infrastructure viability.

Healthcare and related operations including:

- hospitals
- pharmacies
- biotechnology therapies

- consumer health products and services
- doctor and dentist offices
- elder care, including adult day care
- health care plans and health care data
- home health care workers or aides
- medical wholesale and distribution
- medical marijuana dispensaries and producers
- physical therapy
- chiropractic offices
- veterinary and animal health services
- walk-in-care health facilities
- nursing homes, or residential health care facilities or congregate care facilities
- research and laboratory services, including testing and treatment of COVID-19
- manufacturing, distributing, warehousing, and supplying of pharmaceuticals, including research and development
- medical supplies and equipment providers, including devices, diagnostics, services, and any other healthcare related supplies or services

Infrastructure including:

- airports/airlines
- commercial trucking
- dam maintenance and support
- hotels and other places of accommodation
- telecommunications and data centers
- water and wastewater operations, systems, and businesses
- utilities including power generation, fuel supply, and transmission
- transportation infrastructure including bus, rail, for-hire vehicles and vehicle rentals, and garages
- education-related functions at the primary, secondary, or higher education level to provide support for students, including distribution of meals or faculty conducting e-learning

All manufacturing and corresponding supply chains, including aerospace, agriculture, and related support businesses.

Retail including:

- pharmacies

- gas stations
- convenience stores
- guns and ammunition
- pet and pet supply stores
- liquor/package stores and manufacturer permittees
- grocery stores including all food and beverage retailers
- appliances, electronics, computers, and telecom equipment
- hardware, paint, and building material stores, including home appliance sales/repair
- big-box stores or wholesale clubs, provided they also sell groceries, consumer health products, or operate a pharmacy

Food and agriculture, including:

- farms and farmer's markets
- nurseries, garden centers, and agriculture supply stores
- food manufacturing, processing, storage, and distribution facilities
- restaurants/bars (provided compliance with all applicable executive orders is maintained)

Services including:

- child care services
- financial advisors
- insurance companies
- news and media
- laundromats/dry cleaning
- legal and accounting services
- mail and shipping services
- bicycle repair and service
- storage for Essential Businesses
- accounting and payroll services
- building cleaning and maintenance
- critical operations support for financial institutions
- funeral homes, crematoriums, and cemeteries
- marinas and marine repair and service
- auto supply, repair, towing, and service, including roadside assistance

- financial institutions, including banks, credit unions, and check cashing services
- trash and recycling collection, hauling, and processing
- warehouse/distribution, shipping, and fulfillment
- animal shelters or animal care or management, including boarding, grooming, pet walking and pet sitting
- real estate transactions and related services, including residential leasing and renting
- religious services (subject to [Executive Order 7D](#) limiting gatherings to 50 people)

Providers of basic necessities to economically disadvantaged populations including:

- food banks
- homeless shelters and congregate care facilities
- 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 social service agencies

Construction including:

- all skilled trades such as electricians, HVAC, and plumbers
- general construction, both commercial and residential
- planning, engineering, design, bridge inspection, and other construction support activities
- other related construction firms and professionals for essential infrastructure or for emergency repair and safety purposes

Services necessary to maintain the safety, sanitation and essential operations of all residences and other buildings (including services necessary to secure and maintain non-essential workplaces):

- disinfection
- doormen
- state marshals
- landscaping services
- law enforcement
- pest control services
- building cleaners or janitors
- building code enforcement
- fire prevention and response
- emergency management and response
- outdoor maintenance, including pool service

- general maintenance whether employed by the entity directly or a vendor
- home-related services, including real estate transactions, closings, appraisals, and moving services
- security and maintenance, including steps reasonably necessary to secure and maintain non-essential businesses

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 services
- essential government services
- billboard leasing and maintenance
- government owned or leased buildings
- information technology and information security

Defense and national security-related business and operations supporting the U.S. Government or a contractor to the US government.

The DECD guidance provides further that any business that only has a single occupant/employee (e.g. attendant) is deemed exempt from the Executive Order and is not required to submit a request to be designated as an essential business.

If the function of your business is not listed above, but provides essential services or functions, you may request designation as an essential business by the DECD. ***Day Pitney LLP is prepared to assist in this process.*** Businesses requesting designation as an Essential Business need to (1) describe why it is requesting that the business be deemed an Essential Business for purposes of Executive Order 7H and (2) provide details of how the business plans to meet CDC recommended guidelines to maintain employee safety during the COVID-19 pandemic. We anticipate that most successful requests will be carefully drafted and narrowly tailored to be limited only to designation for the functions of your business that perform or support an essential business function described in the DECD guidance. All decisions will be communicated by DECD via email and will "balance public health, safety, and the security of our industry supply chains supporting life sustaining businesses."

To request designation as an essential business, a business will be required to complete an application in the form of "[Business Information Request for Designation as an Essential Business](#)." Applications will be submitted by businesses, electronically, under penalty of false statement, Connecticut General Statutes section [53a-157b](#), and the authorized applicant will certify that the information submitted is true and correct to the best of the applicant's knowledge. Applications may be subject to public disclosure under the [Connecticut Freedom of Information Act](#).

For more Day Pitney alerts and articles related to the impact of COVID-19, as well as information from other reliable sources, please visit our [COVID-19 Resource Center](#).

COVID-19 DISCLAIMER: As you are aware, as a result of the COVID-19 pandemic, things are changing quickly and the effect, enforceability and interpretation of laws may be affected by future events. The material set forth in this document is not

an unequivocal statement of law, but instead represents our best interpretation of where things stand as of the date of first publication. We have not attempted to address the potential impacts of all local, state and federal orders that may have been issued in response to the COVID-19 pandemic.

Authors



Daniel L. Schwartz

Partner

Stamford, CT | (203) 977-7536

New York, NY | (212) 297-5800

dlschwartz@daypitney.com



Glenn W. Dowd

Partner

Hartford, CT | (860) 275-0570

gwdowd@daypitney.com



Heather Weine Brochin

Partner

Parsippany, NJ | (973) 966-8199

New York, NY | (212)-297-5800

hbrochin@daypitney.com



Jeffrey P. Mueller

Partner

New Haven, CT | (860) 275-0164

New York, NY | (212) 297-5800

jmueller@daypitney.com



Patricia J. Durelli

Partner

Hartford, CT | (860) 275-0494

pdurelli@daypitney.com



R. Scott Beach

Partner

Greenwich, CT | (203) 862-7824

Stamford, CT | (203) 977-7336

rsbeach@daypitney.com



Richard P. Colbert

Partner

New Haven, CT | (203) 977-7375

Stamford, CT | (203) 977-7300

rpolbert@daypitney.com



Richard D. Harris

Partner

Hartford, CT | (860) 275-0294

New Haven, CT | (203) 752-5094

rdharris@daypitney.com



Stanley A. Twardy, Jr.

Of Counsel

Stamford, CT | (203) 977-7368

satwardy@daypitney.com



Susan R. Huntington

Partner

Hartford, CT | (860) 275-0168

Washington, D.C. | (202) 218-3909

shuntington@daypitney.com