

Governor Murphy's "Stay at Home" Executive Order: What Does it Mean and What Your Community Should Do

March 22, 2020



On March 21, 2020, Governor Murphy issued Executive Order No. 107, requiring all New Jersey residents to “remain at home or at their place of residence,” unless otherwise excepted. The immediate reaction to and interpretation of the Governor’s Order varies greatly. Here is what the Order means and how Becker recommends its New Jersey

community association clients ensure that they are adhering.

“Stay at Home”

First and foremost, the Order requires all New Jersey residents to remain at home or at their residence unless they are:

1. Obtaining goods or services from the essential retail businesses (*defined below*);
2. Obtaining takeout food or beverages from restaurants, other permitted dining establishments;
3. Seeking medical attention, essential social services, or assistance from law enforcement or emergency services;
4. Visiting family or other individuals with whom the resident has a close personal relationship, such as those for whom the individual is a caretaker or romantic partner;
5. Reporting to, or performing, their job (*more on this important topic below*);
6. Walking, running, operating a wheelchair, or engaging in outdoor activities with immediate family members, caretakers, household members, or romantic partners while following best social distancing practices with other individuals, including staying six feet apart;
7. Leaving the home for an educational, religious, or political reason;
8. Leaving because of a reasonable fear for his or her health or safety;
9. Leaving at the direction of law enforcement or other government agency.

While not a true “Shelter in Place” order for the reasons explained below, the bottom line is all New Jersey residents need to do their part and stay home, unless absolutely necessary for any of the above listed exceptions. We cannot sufficiently express how important this is to successfully defeat the spread and increasing number of COVID-19 cases in New Jersey. We strongly encourage our clients to adhere to the Governor’s Executive Order and take all possible steps to preserve the health and safety of your neighbors, which will in turn preserve the health care system’s capacity to treat those who require emergency or intensive care. When

you are out of your home for a permitted reason, you are still required to adhere to social distancing and stay six feet apart from others, excluding immediately family members, caretakers, household members or romantic partners.

Public Transportation and Gatherings

Public transportation is limited to those individuals who have a permitted reason to leave their home, but only if they have no other feasible choice but to utilize public transportation. Those who must travel via public transportation must make all efforts to stand or sit six feet away from other riders and frequently utilize sanitizing products.

All gatherings of individuals, including parties, celebrations and are social events, are not permitted, unless otherwise authorized.

Closure of Non-Essential *Retail* Businesses

The brick-and-mortar premises of all non-essential retail business must close to the public until further notice. The following essential retail business are excluded from the Order and residents are permitted to leave their homes to obtain goods or services from same:

- a. Grocery stores, farmer's markets and farms that sell directly to customers, and other food stores, including retailers that offer a varied assortment of foods comparable to what exists at a grocery store;
- b. Pharmacies and alternative treatment centers that dispense medicinal marijuana;
- c. Medical supply stores;
- d. Retail functions of gas stations;
- e. Convenience stores;
- f. Ancillary stores within healthcare facilities;
- g. Hardware and home improvement stores;
- h. Retail functions of banks and other financial institutions;
- i. Retail functions of laundromats and dry-cleaning services;
- j. Stores that principally sell supplies for children under five years old;
- k. Pet stores;
- l. Liquor stores;
- m. Car dealerships, but only to provide auto maintenance and repair services, and auto mechanics;
- n. Retail functions of printing and office supply shops; and
- o. Retail functions of mail and delivery stores

Despite this, the above essential retail businesses must, wherever practicable, provide pickup services outside or adjacent to their stores for goods ordered in advance online or by phone. All online and telephonic delivery services are permitted, provided the retail business is authorized to do so under existing laws. To the extent that an essential retail business remains open, the business must abide by applicable social distancing practices, including reasonable efforts to keep customers six feet apart and frequently using sanitizing products on common surfaces.

All Other Businesses or Non-Profits

All other non-retail businesses or non-profits are required to accommodate their workforce, wherever practicable, for telework or work-from-home arrangements.

To the extent that a business or non-profit has employees that cannot perform their functions via telework or work-from home, that business or non-profit must make their best efforts to reduce staff on site to the minimal number necessary to allow essential operations to continue. Some examples of employees that need to be physically present would include: law enforcement officers, fire fighters, and other first responders, cashiers or store clerks, construction workers, utility workers, repair workers, warehouse workers, lab researchers, information technology maintenance workers, janitorial and custodial staff, and certain administrative staff.

Management, Concierge, Security and Janitorial or Custodial Services

From the moment that Governor Murphy announced he was considering a “shelter in place” type executive order, many of our communities asked whether their on-site management offices, concierge, porters, gate personnel (sometimes referred to as “security”) and janitorial or custodial staff could continue to operate. In an answer to a press question at the briefing Governor Murphy indicated that movers would be considered essential personnel to allow people to move in or out of a home. The simple answer is “Yes, *but with exceptions.*” Staff for on-site services such as these must be kept to a minimum and social distancing adhered to. In addition, to the extent that any such services can reasonably be provided via telework or work-from-home arrangements, then they must be.

If you have any questions about services being provided to your community and whether you are permitted to continue same, please feel free to contact any of the attorney’s in our New Jersey Community Association Practice Group.

Guests and Visitors, Including Medical Professionals and Caretakers

It should be noted that the governor’s Executive Order does not mandate who community associations must permit in their communities. Because community associations come in many different flavors, the concerns about guests and visitors may differ based on the type of community you live in or manage. For instance, mid- and high-rise buildings have special concerns because each guest or visitor brings a small increased risk of carrying the coronavirus. But when one aggregates a large number of guests and visitors the risk increases substantially. Further, those buildings have elevators and other common spaces that guests and visitors pass through, including, of course, elevators. It has been estimated that the coronavirus can survive for 72 hours on hard surfaces, thereby presenting a risk as increasing numbers of people use the elevators. As a result, a mid- or high-rise community association board is within its authority to limit guests and visitors to a greater degree than the governor’s order might suggest. The liability of the owner of a property (or a condominium association) to render its common areas safe and to take reasonable action in response to known threats is a legal responsibility of all property owners. The Condominium Act, for instance, states that it is a duty of the governing body to arrange for the maintenance, repair, replacement and **sanitation** of the common elements.

Executive orders are drafted for the public at large and cannot conceive of every property scheme that exists in the state. While the executive order is a good starting place, all associations should consider reasonable steps that can be taken to ensure the safety of its residents. Of course, there is an obligation to consider special circumstances even in a mid- or high-rise setting. Does someone living in the building require assistance to take medication or to perform daily living activities?

Does a resident have special needs of another type? If so caretakers and relatives who provide essential services to those persons must be permitted.

But caretakers, medical professionals, plumbers or electricians who provide necessary repair services may be screened for a higher risk of coronavirus infection if they will be accessing the common elements of the building or community in order to perform their services.. A recommended questionnaire for these individuals can be accessed [here](#) for use in your community. If any permitted guest answers “Yes” to any of the questions, and the service which they are providing is not emergent or necessary for the immediate preservation of the life and/or safety of a resident in the community, they can be denied access. To be clear, the community should not interfere with any provider of emergency medical or emergency response services.