



Stay-At-Home Orders in Place for Kansas City Metro Area

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In response to evidence of possible community spread of the COVID-19 in Kansas City, Mayor Quinton D. Lucas and other city and county officials throughout the metro area recently issued Stay-at-Home Orders (the “Orders”) ordering all individuals in Kansas City, Missouri, Jackson County, Missouri, Clay County, Missouri, Johnson County, Kansas, Wyandotte County, Kansas, and Leavenworth County, Kansas to stay at home. The Orders will go into effect 12:01 a.m. Tuesday, March 24th and will expire on 11:59 p.m., Friday, April 24, 2020 and may be extended.

The Kansas City, Missouri and Clay County, Missouri Orders are identical. The other Orders are very similar but are not identical. The explanation below quotes extensively from the Kansas City, Missouri order, and while other the jurisdictions’ Orders are largely similar, there are slight variances. Because of the slight differences in the various Orders and the fact that they do not address every employment situation, we recommend that you seek legal advice as to specific questions regarding the legal effect of these Orders on your business and your employees.

While these Orders remain in place, individuals may leave their residences or place of rest only to undertake Essential Activities, or to provide any services or perform any work necessary to the operations and maintenance of Essential Business, Essential Infrastructure, Healthcare Operations, and Minimum Basic Operations.

Companies that do not provide Essential Business, Essential Infrastructure, or Healthcare Operations are required to cease all in-person operations, except for Minimum Basic Operations (defined below). These non-essential businesses may continue operations consisting exclusively of workers performing activities at their own residences or places of rest.

The Orders generally permit individuals to leave their homes to engage in Essential Activities. These include seeking medical care, obtaining food and household products, engaging in outdoor activity, and caring for family members, close personal acquaintances, or pets in another household. Individuals may also leave their home to work if their work involves providing essential products and services at an Essential Business or providing Minimum Basic Operations for their employer. All individuals are directed to continue practicing Social Distancing.

Essential Businesses

A number of Essential Businesses are exempt from the Orders, permitting individuals to leave their home to work:

- Healthcare Operations: include hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, home healthcare services

providers, mental health providers, or any related and/or ancillary healthcare services, veterinary care and all healthcare services provided to animals. This exemption “shall be construed broadly to avoid any impacts to the delivery of healthcare, broadly defined.”

- **Essential Infrastructure:** include, but not be limited to, construction, airport operations, water, sewer, gas, electrical, oil refining, railroad and rail systems, roads and highways, public transportation, solid waste collection and removal, internet, and telecommunications systems (including the provision of essential infrastructure for computing services, business infrastructure, communications, and web-based services).

- **Other Exempt Businesses:** The Orders generally list the following business types as “Essential Businesses:”

- ? Grocery stores, farmers’ markets, farm and produce stands, markets, food banks, convenience stores, and other establishments engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products (such as cleaning and personal care products). This includes stores that sell groceries and also sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences and persons;

- ? Food cultivation, including farming, livestock, and fishing;

- ? Human and animal food processing facility workers (Jackson County, Missouri does not include);

- ? Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals;

- ? Newspapers, television, radio, and other media services;

- ? Gas stations and auto-supply, auto-repair, and related facilities;

- ? Banks and related financial institutions;

- ? Hardware stores;

- ? Plumbers, electricians, exterminators, 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, including post office boxes;

- ? Educational institutions—including public and private K-12 schools, colleges, and universities—for purposes of facilitating distance learning or performing essential functions related to distance learning and provision of other services related student welfare, including but not limited to food provision and delivery, provided that social distancing of six-feet per person is maintained to the greatest extent possible;

- ? Laundromats, dry cleaners, and laundry service providers;

- ? Restaurants and other facilities that prepare and serve food and drink, but only for delivery or carry out. Schools and other entities that typically provide free food services to students or members of the public may continue to do so under this Order on the condition that the food is provided to students or members of the public on a pick-up and takeaway basis only. Schools and other entities that provide food services under this exemption shall not permit the food or drink to be consumed at the site where it is provided, or

at any other gathering site;

? 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;

? Businesses that ship or deliver groceries, food, goods or services directly to residences;

? Airlines, taxis, and other private transportation providers providing transportation services necessary for Essential Activities and other purposes expressly authorized in this Order, as well as transportation maintenance services such as mechanics necessary to keep transportation services operational;

? Home-based care for seniors, adults, or children; and

? Residential facilities and shelters for seniors, adults, and children.

Minimum Basic Operations

Under most of the Orders, including Kansas City, Missouri and Jackson and Clay Counties, there are provisions for businesses not exempt under the Orders as an Essential Business that specify that their workers may still leave the home to perform in-person Minimum Basic Operations, including the minimum necessary activities to:

- Maintain the value of the business's inventory, ensure security, process payroll and employee benefits, or for related functions, or
- Facilitate employees of the business being able to continue to work remotely from their home or elsewhere.

Johnson County also permits Minimum Basic Operations, but it does not define the term or the extent of its application.

Wyandotte and Leavenworth Counties do not include any "Minimum Basic Operations" language in their Orders, but we are hopeful that they will clarify their position on that issue.

Social Distancing Requirements

Workers of Essential Businesses and/or those maintaining Minimum Basic Operations must continue to comply with Social Distancing Requirements to the extent possible, which include maintaining at least six-foot social distancing from other individuals, washing hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer, regularly cleaning high-touch surfaces, and refraining from shaking hands.

Practical Considerations/Questions

? What if some of the work my business does at its facility/office fall within an Essential Business exemption and some within non-essential?

The Orders mandate all non-essential operations cease in-person operations. Additionally, the Orders only permit the provision of "essential products and services" at an Essential Business or work "necessary to the operations and maintenance" of the Essential Business (other than Minimum Basic Operations). Therefore, employers should strongly consider ceasing all in-person non-essential activities and require employees perform those functions at home.

? What if my office is outside the counties and cities mentioned above but an employee resides within these jurisdictions, or what if I reside outside of the areas covered by these orders but work within the cities and counties covered by these orders?

The Orders apply to Kansas City metro residents and businesses within the respective jurisdictions. Thus, employers, even those who operate outside of the applicable jurisdiction, should assume that any employee who resides in a jurisdiction that requires the employee not to leave their home except to perform an Essential Activity may not leave their home unless they are doing so to perform an Essential Activity. Additionally, if an individual resides outside of the jurisdictions covered by these orders and has not yet been ordered to stay at home, such an employee should only report to work at a business subject to these Orders if that business is an Essential Business or that employee is performing an Essential Activity.

? Is there a procedure for enforcement or penalty for violation of the Orders?

Yes. Each of the Orders provide for enforcement measures and penalties for failure to comply.

Kansas City, Missouri's Order states that failure to comply is a violation of Section 50-155 of the City's Code of Ordinances (i.e., a misdemeanor) and those in violation may be subject to a \$25-\$500 fine or by imprisonment in the municipal penal correctional institution for a period of time not less than one day and not more than six months.

Jackson County states that compliance is mandatory and failure to comply is a misdemeanor crime, "although the intent is not for anyone to get into trouble[.]" Pursuant to R.S. Mo. §192.320, a violation of or failure to comply with the Order is a Class A misdemeanor punishable by fine, imprisonment, or both.

Clay County states that, "Violation of any provision of this Order constitutes an imminent threat, creates an immediate menace to public health, and shall be considered a violation of Section 205 of Clay County's Code of Ordinances." A violation of the Order is a Class A misdemeanor and is punishable by a fine not to exceed \$500 or \$1,000, depending on the severity of the violation, imprisonment, or both.

Johnson, Wyandotte, and Leavenworth Counties state that, "[p]ursuant to K.S.A. § 65-129b, any sheriff, deputy sheriff or other law enforcement officer of the state or any political subdivision within [Johnson, Wyandotte, or Leavenworth] County, Kansas is hereby ordered to assist in the execution or enforcement of this order." Additionally, Leavenworth County states, "Violation of any provision of this Order constitutes an imminent threat and creates an immediate menace to public health."

? What if essential employees are reluctant to leave the home to perform work for an Essential Business or to perform Minimum Basic Operations?

Because the Orders provide that failure to comply is a violation of pertinent city ordinances, state statutes, or other, and could result in a misdemeanor charge, employees may be reluctant to leave the home to perform even Essential Activities or work. Although Jackson County, for instance, has stated it is more "focused on voluntary compliance" and "the intent is not for anyone to get into trouble[.]" employers that clearly constitute Essential Businesses or who plan to have employees on-site for the performance of Minimum Basic Operations should nevertheless take steps to clearly communicate their applicable exemption to employees expected to work on-site.

Employers should also consider providing those employees with "Safe Passage" letters to carry while driving which explain that they provide essential services at an Essential Business in the unlikely event they are stopped by law enforcement. These letters may aid in providing comfort to employees.

? Is there a way to access and review the various Orders?

Yes. Each of the above jurisdictions have issued an individual order, while Jackson County and Johnson County have also released answers to some Frequently Asked Questions. These resources can be located as follows:

The various Orders and FAQs can be found at:

- o Jackson County, Missouri
 - ? [Order of Jackson County, Missouri](#)
 - ? [Frequently Asked Questions](#)
- o Kansas City, Missouri
 - ? [Second Amended Order 20-01](#)
- o Clay County, Missouri
 - ? [CCPHC Public Health Emergency Order](#)
- o Platte County, Missouri
 - ? [Platte County Health Department Order](#)
- o Johnson County, Kansas
 - ? [Emergency Order of Local Health Officer](#)
 - ? [Frequently Asked Questions](#)
- o Wyandotte County, Kansas
 - ? [Emergency Order of Local Health Officer](#)
- o Leavenworth County, Kansas
 - ? [Emergency Order of Local Health Officer](#)

This article is general in nature and does not constitute legal advice. Please note that new guidance is being provided by authorities on a daily basis so please monitor new developments and guidance. Readers with legal questions about how these orders apply to your business and your employees should consult the authors, Mark Opara (MOpara@sb-kc.com), John Vering (JVering@sb-kc.com), or Curry Sexton (CSexton@sb-kc.com), or any other shareholders in Seigfreid Bingham's Employment Law Group, including: John Neyens, Brenda Hamilton, Shannon Johnson, or Julie Parisi, or your regular contact at Seigfreid Bingham at 816-421-4460. For the latest updates from Seigfreid Bingham, please visit our [COVID-19 Resources page](#).