

## Life Sustaining Business Frequently Asked Questions

### 1. How can I determine whether my business is considered a life-sustaining business and is allowed to continue in-person operations?

Businesses should first refer to the Governor's Order and the list of life-sustaining businesses which is available [here](#). The categories in the list were drawn from the classifications of the North American Industry Classification System (NAICS).

Your industry sector (drawn from the NAICS classifications) appears on the life-sustaining business list. You may have used your business' NAICS code to buy insurance, manage employee benefits, pay taxes or interact with other governmental entities. If you do not know your NAICS classification, you should review documents relating to those activities for help identifying what classification you fall within. More information about NAICS classifications can be found [here](#).

If your business' NAICS classification falls within a category that is listed as "life-sustaining" on the list of life-sustaining businesses you are not required to seek a waiver, and may remain open provided that you adhere to social distancing restrictions and taking other mitigation measures to ensure the health and safety of employees and patrons.

If your business' NAICS classification does not fall within a category listed as "life-sustaining" you may qualify for a waiver if your business provides goods or services necessary to maintain operations of a business on the life-sustaining list.

In making waiver determinations, the Department of Community and Economic Development (DCED) is maintaining consistency with an advisory issued by the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency ("CISA Advisory") entitled "Identifying Critical Infrastructure During COVID-19".

The CISA Advisory broadly authorizes in-person activity by businesses and workers necessary for production, operation and maintenance of supply chains of the following critical infrastructure categories:

- materials and products needed for medical supply chains,
- essential transportation,
- energy,
- essential communications,
- food and agriculture,
- chemical manufacturing
- nuclear facilities,
- the operation of dams, water and wastewater treatment,

- emergency services, and
- the defense industrial base.

Please note that waivers for these activities will only be granted to the extent that they are providing a good or service directly to a critical infrastructure category, as opposed to non-critical operations that may broadly fit within these categories.

## **2. Who may want a waiver?**

Any business that does not fall within a category listed as “life-sustaining” on the list of life sustaining businesses, but which provides goods or services necessary to maintain operations at a business on the life-sustaining list or in one of the critical infrastructure categories outlined in the CISA Advisory should request a waiver.

## **3. Are businesses allowed to continue in-person operations while requesting a waiver?**

Businesses that have requested a waiver should comply with the Governor’s Order and suspend in-person operations until a waiver is approved and provided.

## **4. How does a business request a waiver?**

The easiest and quickest way to submit a waiver is to request a waiver via the [online portal](#) available at the Department of Community and Economic Development website.

## **5. What should be included in the waiver request?**

Waiver requests submitted pursuant to the CISA Advisory should demonstrate that the manufacturing, construction and services businesses activity is part of the supply chain as detailed in the Life-Sustaining Business List and critical infrastructure categories contained in the CISA Advisory.

Businesses seeking a waiver as part of the supply chain or as necessary to support life-sustaining business should include a detailed narrative of their role in the supply chain of goods or services, including the category of critical infrastructure or life sustaining business to which they provide goods or services, the extent of their activity which this category comprises, and specific examples of critical or life sustaining infrastructure

businesses or sectors with which the applicant business has contracts, etc. The waiver request form is available here and contains further detail on the information to be submitted in the waiver request.

**6. How long will it take to get a decision on a submitted waiver ?**

DCED has received a high volume of waiver requests and is processing waivers as rapidly as possible.

**7. My business is in a category allowed to maintain in-person operations, or I was granted a waiver, what should I do to keep employees safe?**

All businesses which are maintaining in-person operations must follow social distancing and COVID-19 mitigation guidance provided by the PA Department of Health and CDC and ensure that there are no gatherings larger than 10 people as recommended by the CDC.

**8. If a business is classified as non-life-sustaining, but has the ability to operate remotely, must the business close down?**

Non-life-sustaining businesses may continue to operate remotely virtually or by telework (i.e. working from home) conducted individually, and in doing so must follow the social distancing and other COVID-19 mitigation guidance provided by the Pennsylvania Department of Health and CDC.

**9. Local political units were absent from the list. Should municipalities suspend in-person operations?**

Local political units are not required to suspend in-person operations but should curtail in-person operations to the extent practicable and follow COVID-19 mitigation guidance provided by the Pennsylvania Department of Health and the CDC. All decisions should appropriately balance public safety while ensuring the continued delivery of critical infrastructure services and functions.

## Common Enforcement Questions

### **10. If a business has been granted a waiver, how can the business demonstrate that fact to an enforcement agency?**

Businesses approved for a waiver will receive written confirmation, which they may share with an enforcement agency to confirm authorization to maintain operations.

### **11. How will this order be enforced? Will there be warnings before fines or other enforcement actions?**

The closure of non-life sustaining businesses is a measure that has been taken to control the spread of a communicable disease, COVID-19, and has been ordered by the Governor and the Secretary of Health. The closures are enforceable through criminal penalties, under the Disease Control and Prevention Law of 1955 and the Administrative Code of 1929.

While other criminal penalties in those laws, as well as under the Crimes Code and the Liquor Code, may apply, the following are the most directly applicable provisions for enforcement of the Orders: 71 P. S. § 1409 and 35 P.S. § 521.20(a).

We strive to ensure enforcement of the orders will be consistent throughout the Commonwealth. We also expect that any discipline for violation of the orders will be progressive discipline that begins with a warning to any suspected violator. Furthermore, enforcement should be prioritized to focus on businesses where people congregate.

### **12. How should municipalities and local governments exercise their enforcement authority in supporting the Governor's order?**

State and local officials should use best judgment in exercising their authorities and issuing implementation directives and guidance. Similarly, critical infrastructure industry partners must use best judgment, informed by the list and CISA Advisory to ensure continued operations of critical infrastructure services and functions. All such decisions should appropriately balance public health and safety while ensuring the continued delivery of critical infrastructure services and functions.

## Common Questions About General Business Categories

**13. May non-life sustaining business which are required to suspend in-person operations retain essential personnel to process payroll and insurance claims, maintain security, and engage in similar limited measures on an occasional basis?**

Yes, but telework (i.e. working from home) should be employed whenever possible, and social distancing must be observed.

**14. I requested a waiver, and specifically referenced the portion of my business that supports the health care industry. Does my waiver apply to all my activities?**

No. If you received a waiver in response to a request in which you specifically identified a particular element of your business as essential to health care or another life-sustaining operation, that waiver only relates to those activities that you specifically identified.

**15. May businesses continue fulfilling mail orders/online orders?**

In-person public facing locations must be suspend in-person operations. Mail order and online fulfilment may continue with essential staff but telework should be employed whenever possible, and social distancing must be observed.

**16. I am a contractor engaging in emergency repairs who received a waiver or was told that I do not require a waiver. May I perform non-essential work?**

Your waiver, or general authority to conduct emergency repairs, is limited to performing those tasks necessary to provide repair services to customers. No new construction or elective rehabilitation or remodeling may be performed.

**17. I have a “one person” operation that operates out of my home, with no customer access or physical facility. Must I seek a waiver?**

No. You may continue to work as you have no physical location. In-home businesses should suspend any in-person elements in which customers must come to the home business.

**18. If a manufacturing business is in a classification that is not to maintain in-person operations, but is in the process of converting to a manufacturing process that is authorized to maintain in-person operations in order to address COVID-19, what should they do?**

Businesses not clearly in a category authorized to maintain in-person operations according to the list and [CISA Advisory](#) should request a waiver. In this particular circumstance, please note in the waiver request that the facility is transferring operations to a life-sustaining function and the Department of Community and Economic Development will communicate with you about next steps. Please note that you may be denied a waiver until DCED can confirm your desire and ability to transfer to a life-sustaining function.

### **Common Questions About Specific Business Categories**

**19. May I complete my customer’s residential construction project?<sup>1</sup>**

Residential construction projects that are substantially complete may continue to completion. For all other residential construction projects limited activities may continue to the extent necessary to stabilize the site, temporarily prevent weather damage, or make emergency repairs only. Projects that are “substantially completed” are those projects that have been issued a final occupancy permit. No new residential construction projects may be started.

**20. May businesses which are required to suspend in-person operations maintain limited in-person essential personnel for security, maintaining good repair, processing of essential functions, or to maintain compliance with federal, state or local regulatory requirements?**

Businesses suspending in-person operations must limit on-site personnel to maintain critical functions, and in all cases follow social distancing and COVID-19 mitigation guidance provided by the PA Department of Health and CDC. Such building services do not require a waiver.

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<sup>1</sup> Amended 3/26/2020

## **21. May childcare facilities maintain in-person operations?**

The following categories of childcare facilities may maintain in-person operations limited to serving employees of life-sustaining businesses that remain open:

- Child care facilities operating under the Department of Human Services, Office of Child Development and Early Learning waiver process;
- Group and family child care operating in a residence;
- Part-day school age programs operating under an exemption from the March 19, 2020 business closure Orders.

## **22. May hotels and motels maintain in-person operations?**

Hotels and motels are not required to suspend in-person operations. Hotels may not operate any dine-in food services; all food services must be a takeout or delivery only option.

## **23. May restaurants, bars, breweries, distillers and wineries continue to provide to-go sales of alcohol?**

All restaurants, bars, breweries, distillers and wineries should continue to adhere to PLCB guidance. Currently to-go sales are authorized but licensees may not allow the service or consumption of food or alcohol on the licensed premises. PLCB licensees should check the PLCB website for further updates.

## **24. May notary and title services maintain in-person operations?**

Notary and title offices may maintain in-person operations only as required to allow notaries and title service providers to participate in court functions deemed essential by a president judge per the Pennsylvania Supreme Court's order of March 18, 2020, or similar federal court directive, and notaries and title service providers may access their offices to effectuate such functions and directives; or for healthcare-related matters.

## **25. May law offices maintain in-person operations?**

Law offices may maintain in-person operations only as required to allow attorneys to participate in court functions deemed essential by a president judge per the Pennsylvania Supreme Court's order of March 18, 2020, or similar federal court directive, and lawyers may access their offices to effectuate such functions and directives.

**26. May bail bondsmen maintain in-person operations?**

Bail bond offices may maintain in-person operations only as required to allow bail bondsman to participate in court functions deemed essential by a president judge per the Pennsylvania Supreme Court's order of March 18, 2020, or similar federal court directive, and bail bondsmen may access their offices to effectuate such functions and directives.

**27. May pet stores offer in-person ancillary services, such as grooming or training?**

No, pet stores may remain open solely to sell pet supplies or provide veterinary services. Pet stores with kennels and pet boarding operations may maintain in-person operations related to these services.

**28. May appliance stores maintain in-person operations?**

Appliance stores may not maintain in-person sales operations either at their physical locations or off-site, but in-home emergency repairs may continue.

**29. I operate a golf course, what in-person operations may continue?<sup>2</sup>**

Please be aware that Golf Courses are “amusement and recreation activities,” and are CLOSED per the Industry Operation Guidance. Nevertheless, some activities at golf courses, such as landscape maintenance and other “services to building and dwellings” may continue only as necessary to prevent deterioration of property condition.

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<sup>2</sup> Amended 3/27/2020



**30. May sporting goods, hunting, fishing and tackle stores maintain in-person operations?**

Sporting goods stores, hunting fishing and tackle stores may not maintain in-person operations, but may maintain self-service operations.

**31. May bicycle sale and repair shops maintain in-person operations?**

Bike shops may not maintain in-person sales but repair work may continue.

**32. May firearm dealers maintain in-person operations?**

Firearms dealers may operate physical businesses on a limited basis to complete only the portions of a sale/transfer that must be conducted in-person under the law, subject to the following restrictions: 1) all such sale/transfers will be conducted by individual appointment during limited hours only so as to minimize social interactions and congregating of persons; 2) the dealer will comply with social distancing, sanitization of applicable area between appointments, and other mitigation measures to protect its employees and the public.

**33. May cell phone sale and repair stores maintain in-person operations?**

Cell phone repair stores may continue to repair cell phones and similar household goods. Electronic appliance store and sales kiosks must suspend in-person operations per the Governor's and Secretary's orders.