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Governor Murphy Signs Executive Order 142: Resumption of Non-Essential Construction, Curbside Pick-Up from Non-Essential Retail Stores, Gatherings in Vehicles

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Greenbaum, Rowe, Smith & Davis LLP Client Alert

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On May 13, 2020, New Jersey Governor Phil Murphy issued Executive Order 142 (EO 142) as part of the state's gradual effort to reopen its economy. Among other things, EO 142 permits non-essential construction projects to resume and allows curbside pick-up at non-essential retail businesses effective Monday, May 18 at 6:00am.

Resumption of Non-Essential Construction Projects

While Executive Order 122 (EO 122) permitted "essential construction projects" to continue subject to a number of restrictions, EO 142 provides that *all* construction projects in New Jersey may now proceed provided they adopt the following policies:

- Prohibit non-essential visitors from the worksite;
- Use social distancing (six feet or more) when picking up or delivering equipment or materials and wherever possible;
- Limit job meetings to groups of fewer than 10 people;
- If the worksite is an occupied residence, require workers to sanitize work areas and remain socially distant (at least six feet) from the occupants;
- Stagger work start and stop times and lunch breaks and limit people in lunchrooms, breakrooms, portable rest rooms, and elevators where practicable;
- Require workers and visitors on site to wear cloth face coverings per CDC recommendations (with exceptions for health reasons);

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- Require workers to wear gloves on site;
- Provide the required face coverings and gloves to workers at the business' expense;
- Require infection control practices (*e.g.*, regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal);
- Limit sharing of tools, equipment, and machinery;
- Where running water is not available, provide portable washing stations;
- Require frequent sanitization of high-touch areas (*e.g.*, restrooms, breakrooms, equipment, and machinery); and
- Place conspicuous signage at entrances and throughout the worksite setting forth the above mandates.

EO 142 expressly supersedes both Paragraph 2 of EO 122 (issued on April 8) and Administrative Order 2020-11 (issued on May 2) governing construction of religious facilities.

Curbside Pickup at Non-Essential Retail Businesses

While Executive Order 107 (issued on March 21) allowed "essential" retail businesses including grocery stores, pharmacies, home improvement and office supply stores to allow customers inside their stores with proper social distancing measures, EO 142 now permits non-essential retail businesses to re-open for curbside pickup of goods *only*. Non-essential retail businesses must continue to restrict customers from all in-store operations. Curbside pickup services must be provided in accordance with the following requirements set forth in EO 142:

- In-store operations must be limited to those employees who are responsible for the operations required for curbside pickup;
- Customer transactions should be handled in advance by phone, email, or other means that avoid person-to-person contact;
- Customers shall notify the retailer by text message, email, or phone once they arrive, or make best efforts to schedule their arrival time in advance. The customer will be asked to remain in their vehicle, if arriving by car, until store staff delivers the purchase;
- Designated employees should bring goods outside of the retail establishment and place goods directly in a customer's vehicle when possible, avoiding person-to-person contact; and
- Such businesses must follow social distancing and mitigation practices outlined in previous orders, including requiring workers to wear cloth face coverings when in contact with other workers or customers and gloves when in contact with goods or customers, and regular hand washing and sanitization of high-touch areas.

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Retail businesses operating in shopping malls will also be permitted to operate by curbside pickup, in accordance with the other requirements of EO 142, however staff must bring the goods to customers at the exterior of the mall. The indoor portions of shopping malls must remain closed to customers, as previously required by EO 107.

Gatherings in Vehicles

EO 142 clarifies that gatherings in vehicles do not violate EO 107. Examples of such gatherings include but are not limited to drive-in movies, religious services, or drive-through farms or safaris. Vehicle gatherings will be subject to the restrictions in EO 142, which require attendees to remain in their vehicles with exceptions for health or safety reasons or to access restroom facilities. All windows, doors, sunroofs, and convertible tops must remain closed within a six-foot proximity to other vehicles. Individuals organizing or maintaining such vehicle gatherings who will not be inside a closed vehicle must comply with social distancing protocol and wear cloth face coverings.

Please contact the authors of this Alert with any questions or to discuss your individual circumstances.

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