

Wisconsin's New Safer At Home Order Alters Restrictions on Businesses

Article
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On April 16, 2020, Governor Evers and the Department of Health Services issued an extension to the Safer At Home Order. Emergency Order #28 will begin on April 24, 2020, and will continue until May 26, 2020, at 8 a.m., unless altered. The extended Order provides new restrictions on the number of individuals allowed in retail stores at any point in time. Additionally, the extended Order provides more flexibility for non-essential businesses to continue certain operations.

Restrictions on Retail Businesses

The Order places new restrictions on the number of individuals in retail stores that are essential businesses. There are two different rules depending upon how much customer floor space the retail business has.

For stores with less than 50,000 square feet of customer floor space, the store must limit the number of individuals in the store to less than 25% of the total occupancy limits, as established by the local municipality. The limitation includes **both** employees and customers.

For stores with more than 50,000 square feet of customer floor space, the store must limit the number of customers in the store to 4 people per 1,000 square feet of customer floor space. This limitation does **not** include employees. However, the other social distancing requirements, such as six feet of separation, must still be followed.

Additionally, stores with 50,000 square feet of customer floor space must also offer at least two hours per week of dedicated shopping time for vulnerable populations, including those over the age of 60, pregnant individuals, and those with chronic conditions, such as heart disease, diabetes, and lung disease.

Businesses are encouraged to adapt their operations to provide their goods through curb-side or parking lot deliveries to vehicles as much as possible. By offering curb-side or parking lot deliveries, businesses could maintain higher sales than would be allowed with the new restrictions on the numbers of individuals allowed in stores.

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Flexibility for Non-Essential Business

The extended Order provides more flexibility for businesses, including non-essential businesses. It explicitly states that non-essential businesses may continue to provide minimum basic operations during this time.

“Minimum basic operations” is now defined to include delivery, mailings, and curbside pick-up. As such, even non-essential businesses may continue to sell and deliver their goods through shipping, delivery, mailing, and/or curbside pick-up. The only restriction on deliveries is that they cannot require a signature by the recipient.

Customer orders for delivery, shipping, mailing, or curbside pick-up cannot be made face-to-face. They must be made either online or by the phone before pick-up. While providing minimum basic operations, businesses may only have one person in a room or confined space, such as a car. This means that a non-essential business could have one individual in the store filling electronic and phone orders, while another individual makes the deliveries.

The previous Order was unclear on whether non-essential businesses could continue to sell goods by delivery or mail. Additionally, the previous Order did not allow for curbside pick-up for non-essential businesses. The extended Order creates new opportunities for non-essential businesses to continue to conduct some operations. It also explicitly allows for art and craft stores, which were previously closed as non-essential, to offer curbside pick-up of their products.

This is good news for many businesses, especially non-essential businesses, even though it extends the Order. It provides more opportunities for all businesses to operate to some limited extents. Businesses should think creatively about adapting their operations to accept online or phone orders and to provide goods via mail, delivery, and/or curbside pick-up. Non-essential businesses may want to consider altering their hours of operation to allow for these pick-ups or deliveries.

Aesthetic or Optional Exterior Work Allowed with Restrictions

Additionally, the extended Order provides that “Minimum Basic Operations” may include aesthetic or optional exterior residential construction and/or lawn care provided that the work may be performed by just one individual. Previously, aesthetic or optional exterior work was not allowed. Thus, the extended Order will allow for smaller construction projects to resume. Businesses should consider whether projects can be reasonably adapted to be performed by one individual.

We are continuously monitoring this rapidly evolving impact to provide our clients with the most updated guidance on how best to safeguard their workforce while maintaining business operations. In the coming days please watch for updated guidance and recommendations for employers to consider when reviewing their policies to respond to this ever-changing pandemic. This is

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a dynamic and developing situation, therefore, the perspectives given are at the time of the publication.

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