

New Jersey's Issues Executive Order No. 142 on Non-essential Construction Projects and Non-essential Retail Businesses

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Two weeks after announcing "The Road Back: Restoring Economic Health Through Public Health" plan, New Jersey Governor Philip Murphy signed [Executive Order \(EO\) No. 142](#) on May 13, 2020, permitting non-essential construction projects and non-essential retail businesses to reopen effective 6:00 a.m. on May 18, 2020. This is Governor Murphy's first step in restarting New Jersey's economy since he issued the [stay-at-home mandate in EO No. 107](#) on March 21, 2020.

Non-Essential Construction

All construction projects not deemed essential in [EO No. 122](#) can resume. These businesses, however, must adopt the same mitigation and good hygiene practices that essential construction businesses have been adhering to, which "include, at a minimum, the following requirements:

1. Prohibit non-essential visitors from entering the worksite;
2. Engage in appropriate social distancing measures when picking up or delivering equipment or materials;
3. Limit worksite meetings, inductions, and workgroups to groups of fewer than 10 individuals;
4. Require individuals to maintain six feet or more distance between them wherever possible;
5. Stagger work start and stop times where practicable to limit the number of individuals entering and leaving the worksite concurrently;
6. Identify congested and "high-risk areas," including but not limited to lunchrooms, breakrooms, portable rest rooms, and elevators, and limit the number of individuals at those sites concurrently where practicable;
7. Stagger lunch breaks and work times where practicable to enable operations to safely continue while utilizing the least number of individuals possible at the site;
8. Require workers and visitors to wear cloth face coverings, in accordance with CDC recommendations, while on the premises, except where doing so would inhibit the individual's health or the individual is under two years of age, and require workers to wear gloves while on the premises. Businesses must provide, at their expense, such face coverings and gloves for their employees. If a visitor refuses to wear a cloth face covering for non-medical reasons and if such covering cannot be provided to the individual by the

business at the point of entry, then the business must decline entry to the individual. . . .

Where an individual declines to wear a face covering on the premises due to a medical condition that inhibits such usage, neither the business nor its staff shall require the individual to produce medical documentation verifying the stated condition;

9. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;
10. Limit sharing of tools, equipment, and machinery;
11. Where running water is not available, provide portable washing stations with soap and/or alcohol-based hand sanitizers that have greater than 60% ethanol or 70% isopropanol;
12. Require frequent sanitization of high-touch areas like restrooms, breakrooms, equipment, and machinery;
13. When the worksite is an occupied residence, require workers to sanitize work areas and keep a distance of at least six feet from the occupants; and
14. Place conspicuous signage at entrances and throughout the worksite detailing the above mandates.

Non-Essential Retail

All retail businesses not deemed essential in paragraph 6 of EO 107, and in the subsequent Administrative Orders, are permitted to reopen to the public for curbside pickup only. These businesses must adopt and implement social distancing policies that, at minimum, include:

- Customers are not permitted to enter the store;
- “In-store operations shall be limited, wherever feasible, to those employees who are responsible for the operations required for curbside pickup;”
- “Customer transactions shall be handled in advance by phone, email, facsimile,” or other means to avoid person-to-person contact;
- Customers must notify the business “once they arrive, whenever feasible, or make best efforts to schedule their arrival time in advance;”
- “The customer shall be asked to remain in their vehicle . . . until store staff delivers the purchase;” and
- The “employees shall bring goods outside of the retail establishment and place the goods directly in a customer’s vehicle.”

“Retail businesses operating in shopping malls are permitted to operate by curbside pickup,” according to the order. The “employees must bring the goods to customers at the exterior of the mall and shall place them directly in a customer’s vehicle whenever feasible.” But “[t]he indoor portions of shopping malls shall remain closed to the public consistent with Executive Order No. 107.”

Additionally, the order requires non-essential retail businesses to adopt mitigation and good hygiene policies that, “at a minimum:

- Require infection control practices . . . ;
- Provide employees break time for repeated handwashing throughout the workday;
- Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to staff;
- Require frequent sanitization of high-touch areas to which workers have access; and
- Require workers to wear cloth face coverings and gloves when interacting with other workers or customers and require workers to wear gloves when in contact with customers or goods. Businesses must provide, at their expense, such face coverings and gloves for their employees.”

Public Gatherings

In EO 142, Governor Murphy clarified his prior mandate set forth in paragraph 5 of EO 107 prohibiting public gatherings. Public gatherings in which the attendees arrive in a vehicle and remain in the same vehicle during the entire gathering do not violate this mandate. This includes public gatherings that are recreational and entertainment events and religious services. The attendees must keep their vehicles' windows, doors, sunroofs, tops, etc. closed unless the vehicle is more than 6 feet away from another vehicle or a law enforcement officer or private security guard asks the attendee to open the window. If "a gathering requires pre-payment, or seeks donations, of any kind, contactless options for pre-payment or donation . . . must be offered whenever feasible." When an individual organizing or maintaining the gathering is not in a closed vehicle, he or she must wear a face covering.

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National Law Review, Volume X, Number 139

Source URL: <https://natlawreview.com/article/new-jersey-s-issues-executive-order-no-142-non-essential-construction-projects-and>