



OFFICE OF LEGAL COUNSEL

INTERPRETIVE GUIDANCE

Number: COVID19-06
Date: March 24, 2020
Re: Order of the Governor of the State of Maryland, Number 20-03-23-01, dated March 23, 2020, Amending and Restating the Order of March 19, 2020, Prohibiting Large Gatherings and Events and Closing Senior Centers, and Additionally Closing All Non-Essential Businesses and Other Establishments

At this time, the Office of Legal Counsel (“OLC”) recommends that the Administration interpret the above-referenced Order as follows:

1. **Staff Access to Non-Essential Businesses.** The Order requires businesses, organizations, and facilities to close to the general public. This does not prohibit staff from being on-site as reasonably necessary for the purposes listed below, if this can be accomplished in a manner consistent with all applicable guidance from the U.S. Centers for Disease Control and Prevention (“CDC”), the Maryland Department of Health (“MDH”), and the Occupational Safety & Health Administration (“OSHA”) regarding social-distancing and environmental cleaning and disinfection:
 - a. Facilitating remote working (“telework”) by other staff.
 - b. Maintaining essential property.
 - c. Performing essential administrative functions, including without limitation, picking up mail and processing payroll.
 - d. Preventing loss of, or damage to property, including without limitation, preventing spoilage of perishable inventory.
 - e. Caring for live animals.
 - f. Continuing to sell products on a delivery or “curbside” pick-up basis.

2. **When “Non-Essential” Status is Unclear.** If a business, organization, or facility is unsure about whether or not it is considered “non-essential” under the Order, it should:
 - a. *First*, carefully review the Order, all available guidance from the Cybersecurity and Infrastructure Security Agency (see <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>), and all Interpretive Guidance issued by OLC to confirm that the business, organization, or facility is not addressed in some way.
 - b. *Second*, if “non-essential” status is still unclear, make a good faith determination about whether it is “non-essential”, based on:
 - i. the Order’s purpose, which is to “reduce the threat to human health caused by the transmission of the novel coronavirus in Maryland, and to protect and save lives”; and
 - ii. how similar businesses, organizations, and facilities are treated under the Order.
 - c. *Third*, if the business, organization, or facility decides to remain open pending more detailed legal advice, strictly adhere to all applicable guidance from the CDC, MDH, and OSHA regarding social-distancing and environmental cleaning and disinfection.

3. **Additional Businesses, Organizations, and Facilities That May Remain Open.** In addition to the businesses, organizations, and facilities that were identified in Interpretive Guidance documents COVID19-04 and COVID19-05, the following is a non-exhaustive list of additional businesses,

This Interpretive Guidance maybe revised or rescinded at any time. Citizens are urged to consult with their own legal counsel for advice about the application of the Order and this Interpretive Guidance to their particular facts and circumstances.

organizations, and facilities that are included in the federal critical infrastructure sectors. The Order does not require these businesses, organizations, and facilities to close.

- a. Greenhouses and nurseries.
- b. Companies that provide waste management services, including without limitation, waste pickup and hauling, and dumpster rental.
- c. Residential cleaning services.