

## 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.

You can also use the search feature available at [www.census.gov/naics](http://www.census.gov/naics). In the "2017 NAICS Search" box on the left side of that page, enter a keyword that describes your kind of business. A list of primary business activities containing that keyword and the corresponding NAICS codes will appear. Choose the one that most closely corresponds to your primary business activity or refine your search to obtain other choices.

If your business' NAICS classification falls within a category that is listed as "life-sustaining" on the list of life-sustaining businesses you may maintain in-person operations 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 maintain in-person operations if you were granted an exemption from the Department of Community and Economic Development.

In making exemption determinations, the Department of Community and Economic Development (DCED) maintained 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."

In analyzing requests for exemptions, DCED utilized CISA Advisory Version 1.1, originally issued on March 19, 2020, as amended on March 23, 2020. Version 1.1 of the CISA Advisory is available [here](#). Subsequent changes to the CISA guidance were not adopted by the commonwealth and were not applied when analyzing requests for exemptions.

The CISA Advisory 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.

Exemptions for these activities were only granted to the extent that the activity provides a good or service directly to a critical infrastructure category, as opposed to non-critical operations that may broadly fit within the categories.

**2. Is there a deadline to submit exemption requests?**

All exemption requests were required to be submitted no later than 5:00 P.M. on Friday, April 3, 2020.

**3. Who may want an exemption?**

As of 5:00 P.M. on Friday, April 3, 2020, the exemption process has closed.

**4. Are businesses allowed to continue in-person operations while requesting an exemption?**

Businesses that have requested an exemption should comply with the Governor's Order and suspend in-person operations until an exemption is approved and provided.

**5. How does a business request an exemption?**

As of 5:00 P.M. on Friday, April 3, 2020, the exemption process has closed.

**6. What should be included in the exemption request?**

As of 5:00 P.M. on Friday, April 3, 2020, the exemption process has closed.

**7. How long will it take to get a decision on a submitted exemption?**

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

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

All businesses that 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.

**9. 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.

**10. 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**

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

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

**12. 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.

**13. 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**

**14. 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.

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

No. If you received an exemption 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.

**16. May businesses continue fulfilling mail, phone and online orders?**

In-person public facing locations must suspend in-person operations. Mail, phone and online order may continue to be fulfilled by essential staff so long as payment is made by mail, phone or online and the order is delivered to the customer at the customer's home. In fulfilling orders telework should be employed whenever possible, and social distancing must be observed.

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

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

**18. I have a "one person" operation that operates out of my home, with no customer access or physical facility. May I maintain in-person operations?**

Yes. 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, unless engaged in life-sustaining business.

**19. 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?**

In this particular circumstance, please submit your information to the newly developed [Pennsylvania Manufacturing Call to Action Portal](#). Questions about the Portal can be directed to RA-DCEDPAMCTAP@pa.gov.

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

### **20. May I complete my customer's residential construction project?**

Residential construction projects that have been issued a final occupancy permit may continue to completion (i.e., may complete "punch-list" items discovered after the certificate of occupancy has been issued). 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. No new residential construction or non-emergency rehabilitation projects may be started.

### **21. Are childcare programs required to suspend in-person operations?**

Childcare programs in Pennsylvania must suspend in-person operations unless they meet one of the following criteria:

- A Family Child Care Home;
- A Group Child Care Home operating in a residence;
- A Child Care Center or Group Child Care Home operating outside a residence that has received a Waiver to provide care for children of employees of life-sustaining businesses from the Department of Human Services, Office of Child Development and Early Learning; or,
- A Part-day school age program that has received a waiver to remain open from the Department of Community and Economic Development, available [here](#).

A map of child care programs approved to operate in Pennsylvania is available [here](#).

### **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 and delivery 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. Notaries and title service providers may access their offices to effectuate such functions and directives; or for healthcare-related matters.

Notaries may also provide services utilizing audio-visual technology as an alternative to in-person operation in limited circumstances where authorized by guidance issued by the Pennsylvania Department of State. More information about DOS guidance is available [here](#).

**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. See also the notes as to cell phone sale and repair stores below.

**29. I operate a golf course, what in-person operations may continue?**

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

**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. Electronics and appliance stores and sales kiosks must suspend in-person operations per the Governor's and Secretary's orders.

**34. May long-term care providers continue in-person operations?**

Yes, all long-term care entities are life-sustaining and are permitted to maintain in-person operations as an individual and family service.

**35. May car dealerships maintain in-person operations?**

Automobile dealers may not continue physical sale and leasing operations, but certain activities at automobile dealers, such as repairs to passenger and commercial vehicles, may continue. New and used sales at automobile dealerships are not permitted. With respect to online sales, any business that has the ability to operate remotely and provide sales via internet can operate.

However, unless necessary paperwork was completed prior to vehicle dealerships having been declared non-life sustaining, a dealership cannot complete the entire process in Pennsylvania remotely. Pennsylvania requires a notary to be physically present to verify the identity and signature of the purchaser and under PA law, remote notarization is not currently authorized. Therefore, while internet sales are allowed, an exemption would be required to complete the transaction at a physical location.

**36. May garden centers maintain in-person operations?**

Garden centers are not authorized to maintain in-person operations, and this applies to both independent garden centers, as well as those attached to large retail chain or grocery stores. This prohibition does not apply to establishments primarily engaged in retailing farm supplies, such as animal (except pet) feed.

**37. May residential real estate transactions in process prior to the Disaster Declaration continue to close?**

For residential real estate transactions that were in process on or before March 18th, 2020, certain in-person activities may continue in limited circumstances as authorized in Guidance issued by the Department of State available [here](#).

### **38. May apartment leasing offices maintain in-person operations?**

Only emergency housing and emergency maintenance qualify as life-sustaining services in this sector. Virtual and telework operations (e.g. work from home) must be the primary option when available. In-person work at a business site is only to be performed on the most limited basis possible to deliver the services or goods of a life-sustaining business.

### **39. May I offer my residential property for short term rental?**

Short term rentals of any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is advertised or held out to the public as a place regularly rented to guests, or which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or rented through a home-share website are not authorized. This prohibition does not apply to the following:

- Hotels, motels, inns, resorts, non-transient public lodging establishments, or time share projects; or
- Rental stays where guests are currently staying in a vacation rental or have previously booked a stay and are scheduled to check-in no later than April 1, 2020; or
- Rentals to persons performing military, emergency, governmental, health or infrastructure response, or travelers engaged in non-vacation commercial activities.

### **40. May I operate a Game of Skill in my business?**

The commonwealth's consistent position is that so-called Games of Skill are illegal gambling devices and not authorized anywhere in the commonwealth. Operation of these machines during the current health emergency encourages people to congregate unnecessarily and is prohibited under the Governor's Order of March 19, 2020. Any business operating, servicing or otherwise maintaining a Game of Skill, is subject to enforcement which may include an order to suspend otherwise authorized in-person operations.

**41. May commercial bus lines serving scheduled routes within the commonwealth continue operations?**

Intrastate bus operators offering scheduled route service and regulated by the Public Utility Commission as a common carrier must suspend intrastate operations. This requirement does not apply to public transit bus operations.

**42. Are there locations currently maintaining in-person operations for the purpose of processing of fingerprints for background checks?**

Yes. A list of IdentoGO locations that are maintaining in person operations is available [here](#) More information regarding FBI fingerprint checks is available [here](#)