

# COVID-19 Task Force

## District of Columbia Guidance for the COVID-19 Pandemic

### Venable's COVID-19 Task Force Digest

#### Executive branch action

In response to the coronavirus outbreak, District of Columbia Mayor Muriel Bowser issued Mayor's Order 2020-053 (the Order), effective from March 25, 2020 at 10:00 PM through April 24, 2020. The Order – created to mitigate the spread of the COVID-19 virus – requires the implementation of the preventive measures described below. The Order does not include stay-at-home requirements; however, the Mayor and DC health officials are monitoring the situation and encouraging people to stay home to the extent possible.

#### Prohibition on large gatherings

The Mayor's Order defines "**large gatherings**" as any event, subject to specific exceptions and clarifications, that brings together or is likely to bring together 10 or more persons at the same time in a single room, or other single confined or enclosed space. Such spaces could include an auditorium; theater; indoor or outdoor stadium, arena, event center, meeting hall or, conference center; cafeteria; or any other confined indoor or outdoor space.

The large gatherings prohibition excludes:

- Essential businesses and groups performing essential government functions
- Gatherings of people in multiple, separate enclosed spaces in a single building, as long as no more than 10 people are present in any single space at the same time
- The use of enclosed spaces where 10 or more people may be present at different times during the day, as long as no more than 10 people are present in the space at the same time
- Gatherings on federal government-owned property within the District of Columbia

VENABLE<sup>LLP</sup>

March 30, 2020



#### Executive branch action

Mayor Muriel Bowser issued Mayor's Order 2020-053, designed to mitigate the spread of the COVID-19 outbreak in the District of Columbia. Measures include closing of nonessential businesses, prohibiting large gatherings, and establishing provisions for teleworking.

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#### Legislative action

The Council of the District of Columbia enacted, and the Mayor signed into law, the COVID-19 Response Emergency Amendment Act of 2020. The Act extends numerous benefits and protections to workers and businesses.

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- Spaces where no more than 10 persons may be in transit or waiting for transit, such as buses, bus stops, bus terminals, sluglines, subway cars, and subway stations (or shopping areas associated with the buildings housing those subway stations or bus terminals)
- Office space, hotels, or residential buildings, excluding conferences or large gatherings at hotels. Hotels and residential buildings may remain open for guests and as residences

### Essential businesses

The Mayor's Order defines "**essential businesses**" to include:

**Healthcare and public health operations**, including hospitals, clinics, dentist offices, pharmacies, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, home healthcare and assisted living services, mental health providers, medical marijuana dispensaries, calibrators and operators of medical equipment, or any related and/or ancillary healthcare services, as defined by the Cybersecurity and Infrastructure Security Agency (CISA). The term "healthcare and public health operations" also includes veterinary care and all healthcare services provided to animals. This authorization shall be construed broadly to avoid any impediments to the delivery of healthcare, broadly defined.

**Essential infrastructure maintenance**, including public works, such as roads, sidewalks, street lighting, traffic control devices, railways, and government facilities; utilities, such as electricity, gas, telecommunications, water and wastewater, and drainage infrastructure; and solid waste collection and removal by private and public entities.

**Food and household products and services**, including grocery stores, supermarkets, licensed farmers' markets, food banks, convenience stores, liquor stores, and other establishments engaged in the retail sale, wholesale supply or distribution of food products, alcohol, any other household consumer products (such as cleaning and personal care products), laundromats, dry cleaners, laundry service providers, and medical marijuana cultivation centers. This includes stores that sell groceries and non-grocery products, and stores that sell products necessary to maintain the safety, sanitation, and operation of residences.

- Restaurants and other facilities that prepare and serve food are included in this category, but only for delivery, carry out, or "grab and go," including food trucks and rapid made-to-order meals, but not for sit-down consumption
- Schools, senior citizen centers, and other entities that typically provide free food services to students or members of the public may continue to do so under the Order, provided, that the food is distributed to students or members of the public on a pick-up and take-away basis only
- Facilities that provide food services under this exemption shall not permit the food to be consumed at the site where it is provided, nor shall food be provided in a self-serve manner, such as a buffet bar, salad bar, or large pots where people serve themselves

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***Social services providing the necessities of life***, including businesses and organizations that prepare and provide food, shelter, social services, and other necessities of life for economically disadvantaged or otherwise needy individuals. This also includes organizations or components of organizations that process eligibility for such services.

***Communications and information technology***, including newspapers, television, radio, and other media services and the engineers, technicians, and associated personnel responsible for communications and information technology infrastructure construction and restoration.

***Energy and automotive***, including businesses that maintain, ensure, restore, or are otherwise involved in the electricity industry; and businesses that involve petroleum; natural or propane gas, including gas stations; auto repair/mechanic shops, auto supply stores; and related facilities.

***Financial services***, including banks, credit unions, and other financial institutions.

***Educational institutions***, including public and private K-12 schools, colleges, and universities, but solely for the purposes of facilitating distance learning and distance operations. This also includes entities that are modifying facilities to support the District's COVID-19 response or were put in place specifically to address issues related to the Mayor's declaration of a public health emergency.

***Transportation and logistics***, including businesses that ship or deliver groceries, food, goods, or services directly to residences; taxis, ride-sharing companies, and other private providers of transportation services necessary to operate essential businesses or carry out essential government functions, and other purposes expressly authorized in the Order. Transportation and logistics also covers businesses that provide mailing and shipping services, including post office boxes and moving companies; and bicycle sales, management, and repair businesses.

***Construction and building trades***, including plumbers, pipefitters, steamfitters, electricians, boilermakers, exterminators, roofers, carpenters, bricklayers, welders, and elevator mechanics. The Order also designates as essential those businesses that sell supplies and materials for maintenance of commercial and residential buildings and homes, such as "big box" supply stores; plumbing distributors; electrical distributors, and HVAC distributors. Other businesses that provide services necessary to maintaining the safety, sanitation, and operation of residences and essential businesses are considered essential.

***Housing and living facilities***, including residences and residential facilities; group housing and shelters; university housing; hotels, except conference facilities, ballrooms, and dining-in facilities at their hotel-based restaurants, which are nonessential; and animal shelters.

***Professional services***, including legal, insurance, notary public, tax preparation, and accounting services, but only when necessary to assist in compliance with legally mandated activities, essential businesses, or essential government functions.

***Childcare facilities***. To the extent possible, childcare facilities should prioritize services for children or essential employees. In addition, these facilities shall comply with the DC Office of the State Supervisor of Education (OSSE), [Guidance for Child Care Providers and Families Related to Coronavirus \(COVID-19\)](#).

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### Nonessential businesses

“Nonessential businesses” include, among others:

- Gyms and health clubs
- Theaters and auditoriums
- Hair and nail salons
- Barbershops
- Tattoo parlors
- Retail clothing stores
- Professional services not devoted to assisting essential government functions

### Essential government functions

Essential government functions encompass law enforcement, firefighting, emergency medical services, emergency management, 911/311 call centers; and services needed to ensure the continuing operation of government agencies and provide for the health, safety, and welfare of the public, performed by the District of Columbia or federal government or their contractors, the District of Columbia Courts, intergovernmental commissions, and entities performing such tasks as conducting judicial and elections functions. The DC Courts should determine the services needed to prevent interruption in essential government functions.

### Teleworking

Teleworking for employees of essential businesses is encouraged, but must follow social distance requirements, including:

- Maintaining at least six feet of distance from other individuals
- Washing hands with soap and water for at least 20 seconds, or using hand sanitizer immediately after contact with potentially-infected surfaces, to the greatest extent possible
- Covering coughs or sneezes (preferably with a tissue that is safely disposed of immediately after use); or coughing into the sleeve or elbow, and not using hands for this purpose
- Regularly cleaning high-touch surfaces
- Not shaking hands

Any violation of the prohibitions set forth in Mayor’s Order 2020-053 is subject to all applicable civil, criminal, and administrative penalties authorized under District of Columbia law.

### Legislative action

On March 17th, the Council of the District of Columbia enacted the “COVID-19 Response Emergency Amendment Act of 2020.” Mayor Muriel Bowser signed the Act into law that same day, and the Act took effect immediately. Pursuant to the District’s Home Rule Charter, the law will remain in effect for 90 days.

The Act includes the following provisions:

- Extends unemployment benefits to individuals who are unemployed due to COVID-19. At the request and advocacy of the DC Chamber of Commerce, an employer’s experience rating and subsequent unemployment compensation (UI) taxes will not increase if an employee receives unemployment compensation as a direct result of wages lost due to COVID-19.
- Extends employment protections under the DC Family Medical Leave Act to employees who cannot work due to COVID-19.
- Extends the filing date for real property tax for hotels from March 31, 2020 to June 30, 2020; all other businesses may defer February and March sales taxes to July 20, 2020. Also extends the time a business has for filing biennial corporate reports.
- Allows the DC Department of Small & Local Business Development (DSLBD) to issue public health emergency grants or loans to eligible small businesses impacted by the public health emergency.
- Permits a registered and licensed restaurant or tavern to sell sealed containers of beer and wine for carry-out or delivery, when purchased with a prepared food item.
- Allows the Mayor to extend the expiration of public benefit programs, such as TANF, SNAP, or the Alliance program.
- Establishes limitations on price gouging and stockpiling of goods during a public health emergency.
- Grants pharmacies the ability to refill prescription drugs before the end of a waiting period.
- Amends the District’s budget submission requirements, to give the Mayor until May 6, 2020 to submit the FY2021 Budget.

### Summary

Like other jurisdictions, the District of Columbia has taken steps to mitigate the spread of the coronavirus and the economic hardships that the pandemic has created. However, unlike some states and cities, the District of Columbia has not issued official “stay-at-home” or “shelter-in-place” orders. The likelihood of the issuance of such directives will depend on whether the current mitigation measures are found to be effective in diminishing the rate and extent of the spread of the virus.