



FAQs on California's Shelter In Place Orders

NOTE: This article was posted on March 25, 2020 at 8 am PDT. Because the COVID-19 situation is rapidly changing as the government and State of California continues to fight the pandemic, individuals and businesses should consult with counsel for the latest developments and updated guidance on this topic.

On March 19, 2020, the State of California released Executive Order N-33-20, directing all California citizens to remain in their homes, subject to certain exclusions (the “State’s Order”). For residents of many counties in California, the State’s Order only reinforced restrictions already in place. For others, the State’s Order meant they were now subject to restrictions forcing businesses to close and individuals to shelter at home into the foreseeable future.

Despite the now ubiquitous nature of the shelter in place orders, there has been a great deal of confusion about what these orders mean and what individuals and businesses can and cannot do while these orders are in effect. Below are some Frequently Asked Questions about the various shelter in place orders:

My county or city already had a shelter in place order in place. Does the State’s Order preempt my county’s/city’s order?

Not necessarily. According to the State of California, you should follow the **more** restrictive shelter in place order (or the more restrictive portions of the order if one order is overall less restrictive but has more restrictive portions). The State’s Order primarily serves to extend shelter in place to counties that previously had no similar order.

What does shelter in place mean?

“Shelter in place” and “shelter at home” orders require Californians to shelter at their place of residence and practice social distancing.

Los Angeles promulgated a less restrictive, “safer at home,” order. However, as noted above, this order is preempted by the more restrictive State’s Order. Angelenos should abide by the State’s Order and shelter at their place of residence while continuing to practice social distancing.

What does social distancing require?

Social distancing requires that Californians maintain at least six feet of space between them and the nearest person. The only exception is for members of your household, with whom you can continue to maintain less than six feet of distance.

For more on why social distancing is important, visit https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/Gathering_Guidance_03.11.20.pdf.

Does this mean Californians can't leave their homes?

No, Californians can still leave to go to the grocery store, pharmacy, doctor, and go out to exercise so long as they maintain six feet of space between them and the nearest person.

Importantly, Californians cannot gather at the beach, play team sports, or exercise in any manner that maintains less than six feet of space between them and the nearest person. Multiple cities, counties, and news networks continue to report that they observe Californians failing to abide by the shelter in place orders' social distancing requirements. While it may seem to make sense to take advantage of outdoor common spaces while they remain open regardless of the crowds or orders in place now, failure to abide by shelter in place orders will lead to stricter orders that will be more vigorously enforced. The Cities of Los Angeles, Santa Monica, and Manhattan Beach have already closed parking lots near the beaches to dissuade Californians from congregating there. Some beach cities, such as Manhattan Beach, have advised Californians to stay away from the strand paths and beaches. Hermosa Beach has even gone so far as to close its beach and close the portion of the strand path that runs through the city starting March 28, 2020. Los Angeles County has announced that all hiking paths have been closed in response to the failure to practice social distancing. For a complete list of trail closures, visit <https://trails.lacounty.gov/TrailsList>.

How long is the State's Order in effect?

The State's Order went into effect on March 19, 2020, and remains effective until further notice. Because this is the most restrictive order (the other orders have end dates), this is what Californians should expect going into the future.

Is my business ordered to close?

The State's Order identifies 16 essential critical infrastructure businesses that are to remain open while the State's Order is in effect. These include:

1. Communications;
2. Chemical;
3. Critical Manufacturing;
4. Commercial Facilities;
5. Dams;

6. Defense Industrial Base;
7. Emergency Services;
8. Energy;
9. Financial;
10. Food and Agriculture (including restaurants offering to go orders and delivery);
11. Government Facilities;
12. Healthcare and Public Health;
13. Information Technology;
14. Nuclear Reactors, Materials, and Waste;
15. Transportation Systems; and
16. Water.

While the great majority of California businesses must close or must operate remotely, if your business falls into one of these broad categories, it may be eligible to remain open, subject to restrictions. For a complete breakdown of businesses included in each of these categories, visit: <https://covid19.ca.gov/img/EssentialCriticalInfrastructureWorkers.pdf>.

My business can remain open. Are there any special requirements I must adhere to?

Yes, depending on where you are located, you will have special requirements for your business to stay open – particularly if you are open to the public.

In Los Angeles, for example, businesses that remain open must: (1) practice social distancing within the confined space by requiring attendees to be separated by six feet to the extent feasible; (2) provide access to hand washing facilities with soap and water or hand sanitizer that contains at least 60 percent alcohol; (3) post a sign in a conspicuous place at the public entry to the venue instructing members of the public to not attend if they are experiencing symptoms of respiratory illness, including fever or cough; and (4) adhere to communicable disease control recommendations provided by the Los Angeles County Department of Public Health.

What is the penalty for failing to comply with a shelter in place order?

Failure to abide by the State’s Order or any other order is a misdemeanor – meaning you can be arrested and placed in jail, fined, or both. Given the contagious nature of the Corona virus, it is unlikely first-time violators will be arrested and jailed. Nevertheless, you can still be fined for violating the State’s Order or any other order.

What do I do now?

We are in this together. Unfortunately, at this point, the best way to revive and stimulate both the economy and personal finances is to defeat the Coronavirus and the global pandemic.

The most important thing to do now is to follow the shelter in place orders and take control of your life where you are still able. Individuals capable of working from home should do so and remain productive. If you have either been laid off or furloughed, the State has relaxed the requirements to apply for unemployment insurance. You can file an application here: https://www.edd.ca.gov/unemployment/filing_a_claim.htm. Regardless of your employment status, do not hoard food or paper products as hoarding only serves to strain our supply chain and create greater challenges for more vulnerable individuals to get the resources they need.

Hopefully, your business began preparing employees to work from home before any shelter in place order went into effect. If not, it may not be too late to setup your employees to work from home. The State's Order allows information technology workers to continue going into work to allow other employees to work from home. Instruct your information technology staff to take all necessary steps to allow your employees to work from home. Remind any staff reporting to work to practice social distancing. It will be important once your business is set up to work from home that the business continues to follow all labor laws, Americans with Disabilities Act requirements, and other applicable laws. For best practices on how to create an effective work from home work environment, read: <https://www.maloneyfirm.com/wp-content/uploads/Create-an-Effective-Work-from-Home-Work-Environment-.pdf>. If you are uncertain about how any of these laws apply to your business, consult your attorney.

If you have questions regarding this article, contact The Maloney Firm at 310.540.1505.