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|  **Employment Law Alert** **Essential Businesses in Bay Area Requiredto Publish Social Distancing Protocol** |

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| By [Order](https://www.sccgov.org/sites/phd/DiseaseInformation/novel-coronavirus/Documents/03-31-20-Health-Officer-Order-to-Shelter-in-Place.pdf) of the Health Officer of each Bay Area county (Alameda, Contra Costa, Marin, Santa Clara, San Francisco, and San Mateo), "Essential Businesses" (as defined in Section 13.f. of the Orders) that are maintaining operations now have additional limitations imposed on them.Most important, by 11:59 p.m. on April 2, 2020, Essential Businesses must prepare, post, and implement a Social Distancing Protocol ("Protocol") at each of their facilities at which they are maintaining operations. The Health Officers have provided a [template](https://www.sccgov.org/sites/phd/DiseaseInformation/novel-coronavirus/Documents/Appendix-A-Social-Distancing-Protocol.pdf) for such Protocol. The Protocol must be posted at or near the entrance of the facility and be easily viewable by the public and employees. A copy of the Protocol must also be provided to each employee performing work at the facility. At a minimum, the Protocol must explain how the business is achieving the following, as applicable:1. Limiting the number of people who can enter into the facility at any one time to ensure that people in the facility can easily maintain a minimum six-foot distance from one another at all times, except as required to complete the Essential Business activity;
2. Where lines may form at a facility, marking six-foot increments at a minimum, establishing where individuals should stand to maintain adequate social distancing;
3. Providing hand sanitizer, soap and water, or effective disinfectant at or near the entrance of the facility and in other appropriate areas for use by the public and employees, and in locations where there is high-frequency employee interaction with members of the public (e.g. cashiers);
4. Providing for contactless payment systems or, if not feasible to do so, then providing for disinfecting all payment portals, pens, and styluses after each use;
5. Regularly disinfecting other high-touch surfaces;
6. Posting a sign at the entrance of the facility informing all employees and customers that they should: avoid entering the facility if they have a cough or fever; maintain a minimum six-foot distance from one another; sneeze and cough into one's elbow; not shake hands or engage in any unnecessary physical contact; and
7. Any additional social distancing measures being implemented (based on the Centers for Disease Control and Prevention's [guidance](http://r20.rs6.net/tn.jsp?f=0011hasVPBYlas5VIUuE5TnR75T5XQBndWdEcnQA10Xab5XYxXgaUB8w6bfS2jcoZyjyHSlNLJOn86wFYQVqoS8K7gZ3q3-c78tMBVmdLgu6Fep6zASEmvY8LiVEX31T0e8D-j91BIePuo7sHkWSI1d4-jF5Kz-uYrIwsExmRFevyhsxJN81G6kodgSj2znC2XD9z1bCHvTydcky5Wcxbz6tXNiaWQYqp8mAct0vzrIa3Q3ttmt_IJD_1YuCFvPQMHfNWO2D9QAz1AlO8xof0C4g-GHO9HwPAxd&c=_R0boOlFBqBEZGVflte0fOTd9MNEFkV25igMgkRfsuDBAMdK2ZA2Bg==&ch=NVBu8rm4UZy1Frm9-YURiOwT_oQ4TshSjrEDjS9QGrS3HLg5XJvGlw==)).

In addition to requiring the Protocol, the Orders establish several additional requirements. Essential Businesses may only assign those employees who cannot perform their job duties from home to work outside the home. Where an Essential Business also has a non-essential component, it must, to the extent feasible, scale down operations to the Essential Business component only. As a further reminder, even if a business qualifies as an Essential Business, it must also be a business that is necessary to maintain continuity of operations of federal critical infrastructure sectors, as defined by the State Executive [Order](http://r20.rs6.net/tn.jsp?f=0011hasVPBYlas5VIUuE5TnR75T5XQBndWdEcnQA10Xab5XYxXgaUB8w6bfS2jcoZyjnRNVpyBHUYdunvXDpaHXpUEy2OB7Q4aQQ6kRewSQjxTVZl_B8ESDj38EL3XjU_giTFBrjEW0ZnIRSGFbe-Jc5KisOdJXkiuDJlj8-kgxwbUNmKb5QgqVK9tOgbCdOggWUT1Id6kmoJp2ocHmDQVBcA==&c=_R0boOlFBqBEZGVflte0fOTd9MNEFkV25igMgkRfsuDBAMdK2ZA2Bg==&ch=NVBu8rm4UZy1Frm9-YURiOwT_oQ4TshSjrEDjS9QGrS3HLg5XJvGlw==) requiring sheltering in place, in order for its employees to be present in the workplace. *Information provided courtesy of*Employment Law - Santa Clara   |
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