

## Construction Resumes on Pennsylvania in May 1

On April 22, Governor Wolf unveiled a plan to gradually reopen Pennsylvania's economy after almost a month of shuttering all businesses that were not deemed "life-sustaining" to mitigate COVID-19's spread. Though most of the economy will be reopened in three phases, as certain benchmarks are satisfied, the construction industry is set to reopen on May 1. This extends to all construction industry businesses in Pennsylvania such as "new construction, renovation, and repair, as well as land subdivision and design-related field activities."

The reopening of the construction industry is subject to specific guidance, based on guidance produced by the General Contractors Association of Pennsylvania, that is detailed below. The commonwealth issued guidance for all construction activities and additional guidance for residential, commercial, and public construction jobs. However, local political subdivisions are authorized to impose more stringent guidance, so it is best to also check local guidance prior to resuming work.

### Restrictions On All Construction Activities

Though construction is allowed to resume, it must meet additional requirements to ensure safety of the workers and the public. These new requirements for all construction include:

- following all applicable provisions of the Secretary of Health's Order that dictates safety measures for businesses allowed to resume in-person operations. These safety measures include, among other things, "requiring that every person present at a worksite wear masks/face coverings, and provisions requiring the establishment of protocols for execution upon discovery that the business has been exposed to a person who is a probable or confirmed case of COVID-19;"
- following the Secretary of Health's Order for building safety measures;
- following applicable guidance issued by the PA Department of Health and Centers for Disease Control and Prevention;
- maintaining a minimum of six feet between workers unless the nature of the work or the public's safety requires deviation;
- providing handwashing stations at appropriate locations on-site such as at jobsite ingress areas, common areas, offices, trailers, and building entrances;
- ensuring all gatherings are limited to 10 people or less and maintaining six feet between each participant;
- using virtual meetings and disseminating information electronically as much as possible;
- staggering shifts, breaks, work areas, and trades to minimize the amount of workers on-site;
- limiting the sharing of tools and sanitizing the tools if shared;
- employing jobsite screening based on CDC guidance to determine if employees should work, and prohibiting workers with COVID-19 symptoms from working;
- prohibiting unnecessary visitors on-site and limiting supply deliveries;
- limiting access to enclosed spaces as much as possible;
- preventing employees from sharing vehicles as much as possible, and ensuring employees are traveling to/from jobsite in separate vehicles; and,
- identifying a "Pandemic Safety Officer" to enforce all guidance at the project site.

### Restrictions on Residential Construction Projects

Residential construction projects are allowed to resume under Pennsylvania's new order. For purposes of this order, "residential construction" means "detached one-family and two-family dwellings and townhouses which are not more than three stories above grade plane in height with



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a separate means of egress and their accessory structures.” For these projects, the new requirements that must be met to operate include:

No more than four persons are permitted on the jobsite at any time including both general contractors and subcontractors. However, this does not include persons that require temporary access to the site and are not directly performing construction activity: such as delivery persons and code inspectors.

### **Restrictions on Commercial Projects**

Commercial construction projects are allowed to resume under the order, but under different requirements than residential construction. For purposes of this order, “commercial construction” covers essentially any other building, structure, or facility that is not included in the definition of residential above, including multi-unit and student housing buildings. The new requirements on commercial construction projects include:

- No more than four persons on enclosed jobsites or enclosed portions of a jobsite that are 2,000 square feet or less. However, as described above, this does not include persons that require temporary access to the site and are not directly performing construction activity. Enclosed areas are “all areas under roof that are under active construction at the time.”
- Further, one additional person is permitted to be on-site for each additional 500 square feet of enclosed area.
- Commercial construction firms are encouraged to establish written site-specific safety plans for the on-site Pandemic Safety Officer to enforce.

### **Public Construction Projects**

Unlike residential and commercial projects, public construction projects are not widely reopened under the order. Instead, Pennsylvania has set forth certain considerations for public projects in the commonwealth, including state, county, and local projects. These considerations for public construction projects include:

- Political sub-divisions are encouraged by the commonwealth to postpone non-essential projects and to only resume essential projects where it’s possible to implement this guidance.
- Contractors should not resume work on public jobs until directed to do so by the appropriate political sub-division.
- This guidance controls in the event of a conflict between it and guidance already issued for critical or essential projects by state agencies or independent commissions. However, contractors must follow restart or resumption plans issued by that agency or commission.

This action is an example of the evolving response to the COVID-19 pandemic and its effects on the construction industry. For strategies on responding to and documenting impacts from these government actions and COVID-19 in general, please refer to our previous client alert, [COVID-19 Strategies for the Construction Industry](#). Additionally, follow [Cozen O’Connor’s COVID-19 website](#) for new updates.

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