

Sweeney Mason

LLP

Coronavirus (COVID-19) Update:

Santa Clara County Moves Into Tier Three; Revises Health Order and Social Distancing Protocol Requirements

As of October 13, 2020, Santa Clara County has moved into the Orange Tier (Tier Three) of California's [Blueprint for a Safe Economy](#). This plan generally allows all businesses in the County to operate if the State allows them to be open. The result will be a [Revised Risk Reduction Order](#), permitting many additional activities and business operations to resume, including indoor dining and indoor gatherings.

Santa Clara County's Revised Risk Reduction Order will go into effect October 14, 2020. The revised order requires all businesses to follow a series of measures designed to limit the spread of COVID-19. All businesses are encouraged to carefully review the order, the [summary of the order](#), and the County's guidance on the new requirements. Significant changes are highlighted below:

Update and Submit Social Distancing Protocols.

Under the revised order **all businesses** are required to submit to the County an updated Social Distancing Protocol through the County's [online portal](#). The revised protocol must be submitted no later than **Wednesday, October 28, 2020**, and is submitted under penalty of perjury. An updated protocol must be submitted for each location where personnel or members of the public may be present as well as distributed to all workers and available to the public upon request. A sample protocol is available for review [here](#).

Although similar to previous versions, the revised protocol requires the following:

Training workers on how to be safe at work and screen all workers for symptoms;

Posting updated COVID-19 PREPARED signage and Visitor Social Distancing Protocol Information. These documents will be provided to you electronically when you submit your updated protocol;

Complying with strict capacity requirements;

Requiring all personnel and customers to wear face coverings, and maintain six feet of distance from others at all times;

Implementing additional social distancing measures, such as limiting facility personnel, staggering breaks, and maximizing the use of outdoor space;

Instructing all personnel to immediately report to the company if they test positive for COVID-19 and were present in the workplace within the 48 hours prior to the onset of symptoms or within 48 hours of the date of the test;

Reporting to Santa Clara County Health Department any positive cases within 4 hours of learning of such cases;

Implementing a compliant procedure if someone at the facility/workplace tests positive for COVID (instructions and helpful guidance available [here](#));

Assigning someone to monitor the facility to ensure that the maximum number of occupants is not exceeded, that all persons are wearing face coverings (except for those exempted from requirements), and that people are spaced out at least 6 feet apart.

The revised order also instructs companies to continue maximizing telework by having all personnel work from home as much as possible, unless those individuals cannot perform their work remotely, and to relocate as many business activities outside as possible. To be clear, all business must require that all personnel carry out their job functions remotely if they are able to do so.

Industry-Specific Guidelines.

In addition to the requirements applicable to all businesses, the revised order provides additional requirements and guidelines for specific industries, including:

Gatherings.

Construction.

Personal Care Services.

Gyms and Fitness Centers.

Food Facilities.

Dining & Bars.

A full list of the Mandatory Directives is available [here](#). Companies in these industries should carefully review the applicable Mandatory Directive and ensure that their protocols and practices are in compliance.

Please note that COVID-19 continues to pose a severe risk to residents of Santa Clara County, and the Health Officer urges residents to continue taking precautions, including staying home when possible, minimizing interaction with people outside one's household, maintaining social distance, wearing face coverings, and moving as many activities outdoors as possible. Individuals over age 50 and those with serious underlying medical conditions are at greater risk for serious illness from COVID-19. Indoor dining and indoor gatherings are particularly high-risk activities.

Sweeney Mason LLP continues to monitor the rapidly evolving situation pertaining to the COVID-19 virus and resulting legal issues. We are finding that the laws and orders released by the Federal, State, County and Local governments are, in some cases, ambiguous, vague and/or contradictory, resulting in some confusion among a broad cross-section of our clients. At this juncture, and given the fast-paced changes to the applicable orders and mandates, as well as the ambiguities inherent in the orders there is no "one-size-fits-all" approach to COVID-19-related legal matters. As a result, contracts, employment issues, ongoing lawsuits and other matters impacted by the COVID-19 outbreak should be analyzed on a case-by-case basis and with the assistance of Sweeney Mason LLP.

Sweeney Mason LLP is in daily contact with governmental offices and various trade organizations to monitor the developments surrounding the COVID-19 outbreak. While much of our personnel continues to work remotely, Sweeney Mason LLP is fully operational and will continue to assist our clients and community with their legally related issues and concerns during this uncertain time.

For more information, please contact our employment team at 408-356-3000 or via email: Roger Mason at rmason@smwb.com or Rachael Brown at reb@smwb.com.

The following links may assist you in evaluating some of the issues you may have. Stay safe!

DOL Publications:

[FFCRA FAQs](#)

[FFCRA Required Notice](#)

IRS Guidelines:

[FFCRA Tax Credits](#)

[Employee Retention Tax Credits Under CARES Act](#)

SBA Guidelines:

[PPP FAQs](#)

CDC Guidelines:

[Interim Guidance on Risk Assessment for Individuals with Possible COVID-19 Exposure](#)

[Interim Guidance for Businesses and Employers](#)

OSHA:

[Preparing Your Workplace for COVID-19](#)

California:

[Stay at Home Order](#)

[EDD COVID-19 Overview](#)

[EDD COVID-19 FAQs](#)

Santa Clara County:

[Updated Shelter-in-Place](#)

[Social Distancing Protocol](#)

[Public Health Department FAQs on the Shelter in Place Order](#)

San Jose:

[Paid Sick Leave Ordinance](#)



The information provided in this publication is general in nature and is not intended to answer every question that may arise under different fact situations and should not be relied on in the place of professional advice in a given case. If you have specific questions, please contact Sweeney Mason LLP.

SWEENEY MASON LLP's philosophy is that by educating our clients, and other businesses, about their legal obligations, including changes in the law, we best serve our legal goal of minimizing or preventing expensive litigation.

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