



Commonly Asked Questions about non-essential construction order

1. Is construction an essential service?

Under the Gov. Inslee's guidance issued March 25, commercial and residential construction are considered non-essential businesses and are therefore not permitted to continue. However, an exception to the order allows for construction in the following limited circumstances:

- a) Construction related to essential activities as described in the order;*
- b) To further a public purpose related to a public entity or governmental function or facility, including but not limited to publicly financed low-income housing; or*
- c) To prevent spoliation and avoid damage or unsafe conditions, and address emergency repairs at both non-essential businesses and residential structures.*

If your construction business falls into one of these categories then you can continue. Otherwise you and your workers should stay at home pursuant to the governor's Executive Order.

2. Are there certain basic operations like processing payroll that can occur even for businesses classified as non-essential?

The original proclamation issued on March 23, also allows for businesses to:

*Conduct minimum basic operations which are the minimum activities **necessary to maintain the value of the business's inventory, preserve the condition of the business's physical plant and equipment, ensure security, process payroll and employee benefits, facilitate employees of the business being able to continue to work remotely from their residences, and related functions.***

Non-essential services, such as construction may continue in limited circumstances and must follow the current CDC COVID-19 health and social distancing protocols:

Does my circumstance qualify? It depends and is a grey area. Ask these questions:

- 1. Is it necessary to prevent spoliation?
- 2. Is it necessary to avoid damage?
- 3. Is it necessary to correct an unsafe condition?
- 4. Is it an emergency repair?
- 5. Is it for an essential activity?
- 6. Is it for publicly funded low-income housing?
- 7. Is it for a public entity or government function?



If yes, these activities may continue as long as social distancing and COVID-19 safeguards are in place and followed on the jobsite. COVID-19 safeguards are in addition to existing construction safety requirements.

3. I have work in Oregon but my employees live in Washington state or I have work in Washington state but my workers live in Oregon. Can I continue to work?

The governor's order is in effect only on projects in Washington state. It does not matter where the employees or employer resides.

4. I read that the federal government has added construction to the list of approved essential businesses. Does this mean I can work in Washington State?

No, while the federal government's list maintained by Homeland Security is applicable to work performed in Washington state on tribal and federal land, the governor's stay-at-home order still restricts all construction except in limited circumstances.

5. What is the penalty for violating the order?

The penalty identified in the governor's stay-at-home order for willful violations of the order is 364 days in jail and/or a fine of \$5000.

If you have any other questions about being essential, the governor's office may also be able to assist you. You can contact them via phone 360.902.4111 or try submitting an [Essential Business Inquiries Form](#).