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March 19, 2020

The COVID-19 pandemic is causing widespread disruptions across the globe. In Austin, the rules are changing rapidly. On March 17, 2020, Travis County and the City of Austin both issued “[Community Gathering Orders](#)” that prohibit 10 or more people from gathering in a separate enclosed space. A similar order was issued by Williamson County on March 18, 2020; however, Williamson County expressly exempted “construction sites” from its [Second Order](#). On March 10, 2020, OSHA released guidance on workplace exposure to COVID-19, including requirements for recording and reporting workplace exposures. The AGC of America quickly voiced opposition to the guidance, and OSHA issued revised reporting guidance on March 13, 2020. **What does this mean for construction projects in Travis County?**

1. No more than 10 people can work in a single room or space at a given time; and
2. [The Order](#) “does **not** prohibit gatherings of people in multiple, separate enclosed spaces in a single building under construction such as school classrooms, different floors of a multi-level office, residential building, or hotel, so long as 10 people are not present in any single space at the same time.”

## COMMUNITY GATHERING ORDER Q&A:

Q: We are working in a large, open, space, like a ballroom or open-plan office without separate enclosures. Can we have 10 or more people in this space?

A: No. Even though the space is large, it is defined as single room or space. The Community Gathering Ordinance even applies to sporting events. If there are separate enclosures (walls), or you erect separate enclosures, then it is likely that you can have more than 10 people working, provided no more than 10 are in each individual, enclosed, space.

Q: We are pouring a concrete slab and will have more than 10 people working on that slab pour. Is this a violation of the Community Gathering Order?

A: Maybe. It does not appear, on the face of the Travis County Order, that working in open space qualifies as a “single room or space.” However, the Order does apply to sporting events (presumably basketball games, swim meets, etc.), but it is not clear if it applies to football stadiums. The Order does say that you should “minimize the number of employees working within arm’s length of one another.” The Williamson County Order specifically excludes both private business facilities, and “construction sites” from the Order.

Q: We are working on an apartment project, condo project, retail, or office finish-out project. Can we have 10 or more people working on the project?

A: Provided that there are no more than 9 people working any a single room or space, there can be more than 10 people working on the “project.” The Order specifically “does **not** prohibit gatherings of people in **multiple, separate enclosed spaces** (including separate cubicles) in a single building such as school classrooms, different floors of a multi-level office, residential building, or hotel, so long as 10 people are not present in any single space at the same time.”

## EXEMPT PROJECTS:

Certain projects are **exempt** from the Order:

1. Critical infrastructure, including airport facilities and operations, transit, and transit facilities;
2. Government buildings providing essential services;
3. Schools or institutes of higher learning;
4. Grocery stores and pharmacies; and
5. Hospitals and medical offices and facilities.

## OTHER RULES APPLY TO ALL PROJECTS:

Even if your project is exempt, or you have multiple, separate enclosed spaces, the CDC, OSHA, City of Austin, and Travis County rules and regulations still apply, including the following:

- Actively encourage sick employees to stay home.
  - Employees who have symptoms of acute respiratory illness are recommended to stay home and not come to work until they are free of fever (100.4° F or greater using an oral thermometer), signs of a fever, and any other symptoms for at least 24 hours, without the use of fever-reducing or other symptom-altering medicines (e.g. cough suppressants). Employees should notify their supervisor immediately and stay home if they are sick, seeking medical attention as appropriate.
  - See the [AGC’s COVID-19 Recommended Practices](#) for more information.
- Inform your subcontractors and other trades that sick employees must stay home, and not come to the jobsite.
- Employees that come to the jobsite that appear to be sick should be sent home immediately and should be separated from other employees immediately.
- Require respiratory etiquette (coughing/sneezing into upper sleeve) and hand hygiene by all employees (handwashing, coughing, hand sanitizers, etc.).
- Perform routine environmental cleaning.
- Employees who are well but who have a sick family member at home with COVID-19 should notify their supervisor and refer to CDC guidance on [how to conduct a risk assessment](#) of their potential exposure.

- If an employee is confirmed to have COVID-19, employers should inform fellow employees of their possible exposure to COVID-19 in the workplace but maintain confidentiality as required by the Americans with Disabilities Act (ADA). Employees exposed to a co-worker with confirmed COVID-19 should refer to CDC guidance for [how to conduct a risk assessment](#) of their potential exposure.
- Plan for how your business will operate if there is increasing absenteeism or any supply chains are interrupted (particularly long-lead delivery items or critical path or near-critical path activities).
- Set up procedures for activating an infectious disease outbreak response plan, altering business operations.
- For more information, review the [CDC's Interim Guidance for Businesses and Employers](#).

### RECORDING CONFIRMED CASES OF COVID-19 IN OSHA LOG:

OSHA recordkeeping requirements at 29 CFR Part 1904 mandate covered employers record certain work-related injuries and illnesses on their OSHA 300 log. COVID-19 *can* be a recordable illness if a worker is infected **as a result of performing their work-related duties**. However, employers are only responsible for recording cases of COVID-19 if all of the following are met:

1. The case is a confirmed case of COVID-19 (see CDC information on persons under investigation and presumptive positive and laboratory-confirmed cases of COVID-19);
2. The case is work-related, as defined by 29 CFR 1904.5; and
3. The case involves one or more of the general recording criteria set forth in 29 CFR 1904.7 (e.g. medical treatment beyond first-aid, days away from work).

Section 1904.5(a) provides that an injury or illness must be considered work-related if an event or exposure in the work environment either caused or contributed to the injury or illness. Work relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in Section 1904.5(b)(2) specifically applies. A case is *presumed* work-related if, and only if, an event or exposure in the work environment is a discernible cause of the injury or illness or of a significant aggravation to a pre-existing condition. If an employee's condition **arose outside** of the work environment **and** there was no discernible event or exposure that led to the condition, the presumption of work-relationship does **not** apply.

More information about the revised OSHA reporting requirements is available [here](#), and for much more information generally, visit the [AGC's COVID-19 online resource center](#).

These resources are intended to provide you with important information regarding COVID-19 regulations impacting the construction industry. Please note that this is a rapidly developing situation, and we will continue to provide information as it becomes available.