

FACT SHEET: DALLAS COUNTY SHELTER IN PLACE ORDER
MARCH 23, 2020

All non-essential businesses operating in Dallas County must cease all activities at all facilities located in Dallas County beginning at 11:59 p.m. on March 23, 2020. By order of Dallas County Judge Clay Jenkins, Dallas County now joins several cities in instituting a mandatory shelter-in-place order for individuals residing in Dallas County. The Dallas County order has exceptions for “Essential Activities” and “Essential Businesses.” To help you navigate the [Dallas County order](#), we have compiled this list of frequently asked questions. The list of questions and answers is only a guide and is not intended to substitute for legal advice. If you have questions about your circumstances, contact a member of the Wick Phillips labor and employment team. The Dallas County Shelter in Place Order expires at 11:59 p.m. on April 3, 2020.

Frequently Asked Questions About the Dallas County Shelter in Place Order

How does the Dallas County Shelter in Place Order affect employers? All businesses operating in Dallas County, except Essential Businesses (see below) must cease all activities at facilities located in Dallas County beginning at 11:59 p.m. on March 23, 2020.

What is an Essential Business? The Dallas County order defines “Essential business” broadly to mean:

- “Essential Healthcare Operations” like hospitals, clinics and other healthcare facilities, healthcare suppliers, pharmacies, pharmaceutical and biotechnology companies, blood banks, medical research, laboratory services, or any related and/or ancillary healthcare services, including home-based and residential based care for seniors, adults, or children, and veterinary care and all health and welfare services provided to animals.
- “Essential Critical Infrastructure” like public works, construction, residential and commercial construction, airport operations, utilities, roads, highways and public transportation, waste collection and removal, internet and telecommunications systems, financial institutions, and essential manufacturing operations (provided they carry out the work in compliance with social distancing requirements of six feet, to the extent possible).
- “Essential Retail” includes food service providers, grocery stores, liquor stores, warehouse stores, big-box stores, gas stations, convenience stores, businesses that ship or deliver groceries, food, goods or services directly to residences, restaurants and other facilities that

prepare and serve food (but only for delivery or carry out), laundromats, dry cleaners, auto supply and repair, hardware stores and related facilities, and businesses that supply products needed for people to work from home. Second, businesses may continue operations consisting exclusively of employees or contractors performing activities at their own residences (i.e., working from home.) Restaurants are still permitted to provide take-out, drive through, and delivery services.

Does the Dallas County Shelter in Place Order require an employer to shut down all operations? Not necessarily. The Dallas County order specifically provides only that businesses cease operations at facilities located in Dallas County. Businesses may continue operations by having employees or contractors work from home.

Does an employer have to pay employees who are not able to work as a result of the Dallas County Shelter in Place Order? No. Under the Fair Labor Standards Act (FLSA), non-exempt employees are only entitled to pay for hours actually worked, and neither federal nor Texas law requires an employer to pay employees *who are unable to work as a result of the Dallas County order*. But note that all non-exempt employees who are permitted to work from home are entitled to be paid for all hours worked, including overtime for hours that exceed 40 in any workweek. Also, salaried exempt employees must receive their full salary in any week during which they perform any work. Finally, passage of the Families First Coronavirus Response Act (FFCRA) of 2020 provides paid leave to certain employees related to COVID-19 and amends the Family Medical Leave Act (FMLA) by creating a new category of paid leave related to COVID-19 child care for the employee’s son or daughter.

Can an employee opt to use accrued vacation time or other accrued paid time off as a result of a facility closing because of the Dallas County Shelter in Place Order? Yes.

Can an employer force an employee to exhaust accrued vacation time or other accrued paid time off as a result of a facility losing business because of the Dallas County Shelter in Place Order? In general, yes, so long as they do so without discrimination. But, note that certain state and local laws and ordinances contain restrictions on forcing employees to use accrued paid leave in lieu of federal, state or local laws and ordinances that otherwise provide paid leave under certain circumstances.

What happens if an employer refuses to follow the Dallas County Shelter in Place Order? Any person failing to comply with the Dallas County order may be in contempt, and subject to a fine of not more than \$1,000 or confinement in jail for a term not exceeding 180 days.