



## Can Your Self-Storage Facility Remain Open During COVID-19? Understanding if You're an 'Essential' Business

*More states and local governments are mandating business closures to reduce the spread of the coronavirus. As a self-storage operator, it's vital to determine if your facility qualifies as "essential" and can remain open.*

Ashley Oblinger | Apr 08, 2020

The spread of the coronavirus (COVID-19) has quickly created challenges for all businesses, including self-storage operations. Government leaders across the country are issuing executive orders to close "non-essential" businesses, while

allowing “essential,” life-sustaining ones to remain open. The question for self-storage operators is whether your facility falls into the “essential” category.

During a national emergency, federal law gives state and local governments the power to decide what is and isn't essential. To assist in making this determination, the Cybersecurity and Infrastructure Agency (CISA), a division of the U.S. Department of Homeland Security, issued an advisory list of “Essential Critical Infrastructure Workers” on March 19.

Several states have incorporated this advisory list, while others have created their own definitions of “essential business” within their own orders. As such, it's imperative to look at the specific language in each state to determine where self-storage falls.

We reviewed all the state executive orders issued as of March 24. A few states specifically include “storage” or “storage facilities” as essential businesses. Several don't specifically list it as essential but provide an allowance that may permit a storage facility to remain open. Some states don't include self-storage in their definitions at all and, therefore, don't provide a clear path for facility operators.

There are a few states in which the language isn't clear, and arguments can be made on both sides. For example, the orders in Kentucky and New Jersey refer to retail businesses, and one could clearly argue that self-storage doesn't qualify. In Massachusetts, self-storage isn't listed, but essential services does include “workers who support moving and storage services.”

## **Follow the Law**

It's important to understand that several statewide shelter-in-place orders have enforcement mechanisms in the way of fines and even imprisonment. However, it's uncertain at this point how and if these orders are being enforced. What's clear is there's no consensus among the states as to whether self-storage facilities fall into the category of essential business.

Additionally, many locales are beginning to institute their own shelter-in-place orders that affect businesses. Many are more specific than—and may be even be in conflict with—their state order. These laws are coming out incredibly quickly, and most are likely being enacted without the oversight usually given to such things. This can result in conflicts between state and local orders. There's even a conflict with the CISA list issued on March 19—and used by several states—and another CISA position on critical infrastructure that some states are using.

These clashes highlight the need to pay particularly close attention to the language in each state's executive order. **During this frenzied time, our recommendation is to comply with the strictest law that applies to your facility, which will typically be the local law of your community.**

## Open or Close?

Even in states where self-storage facilities are allowed to operate, it isn't mandatory to do so. You may be able to close your office and allow tenants to enter the facility through a gate or remote access system. You may choose to be flexible and provide access on a case-by-case basis or make the decision to cease operation entirely.

The true intent of shelter-in-place orders is to stop people from moving around and limit the spread of the virus. Self-storage is arguably not life-sustaining or critical to infrastructure, so it's important to consider your role in your community and whether you're best serving it and your employees by staying open. It may be that even though you're allowed to operate, it's better to temporarily close. Remember: You have the right to refuse facility access during emergencies, such as hurricanes, snowstorms, etc.

If you're forced to close or decide to do so, let your tenants know. Post signage on the gates and provide a number to call. Post a notice on your website. If you're allowed to stay open and choose to do so, comply with your state and local ordinances, along with any other social-distancing recommendations.

As the coronavirus pandemic continues, things are going to change rapidly. Thus, it's critical to stay current on any new laws enacted by local government. While your state, city or county may not currently have a shelter-in-place order, one might be coming very soon.

*Ashley Oblinger is an attorney in the Atlanta law firm of Weissmann Zucker Euster Morochnik & Garber, P.C., where he specializes in business and self-storage law, advising operators nationwide on all legal matters, including lease preparation, lien enforcement, tenant issues, tenant-claims defense, and employment policies. To reach him, call 404.760.7434; e-mail [ashley@wzlegal.com](mailto:ashley@wzlegal.com) ; visit [www.wzlegal.com](http://www.wzlegal.com) .*

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