

**COVID-19 Help for Small Businesses:  
Reopening Michigan and PPP Loan Forgiveness Guidance**

**May 18, 2020**

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**1. Safeguards for Protecting Employees as Northern Michigan Partially Reopens.**

Governor Whitmer today issued [Executive Order 2020-92](#), allowing for the reopening of retail businesses, office work that cannot be done remotely, and restaurants and bars with limited seating in the Upper Peninsula and 17 counties in the greater Traverse City region. This partial reopening will begin Friday, May 22, 2020 at 12:01 a.m.

All businesses that reopen or remain open for in-person work under Executive Order 2020-92, must adopt the safety measures outlined in [Executive Order 2020-91](#), which includes at a minimum:

- Developing a preparedness and response plan consistent with recommendations in Guidance on Preparing Workplaces for COVID-19, developed by the Occupational Safety and Health Administration (OSHA) and available [here](#). The plan must be made available to employees, labor unions, and customers, whether via website, internal network, or hard copy, by June 1, 2020 or within two weeks of resuming in-person activities, whichever is later.
- Designating one or more supervisors to implement, monitor, and report on the COVID-19 control strategies developed under the business's preparedness and response plan. The supervisor must remain on-site at all times when employees are present. An on-site employee may be designated to perform the supervisory role.
- Training employees, covering at a minimum:
  - Workplace infection-control practices,
  - The proper use of personal protective equipment,
  - Steps employees must take to notify their employer of any symptoms of COVID-19 or a suspected or confirmed diagnosis of COVID-19, and
  - How to report unsafe working conditions.

Employers must maintain records of this requirement.

- Conducting daily entry self-screening protocols for all employees entering the workplace, including, at a minimum a questionnaire covering symptoms and suspected or confirmed exposure to people with possible COVID-19. Employers must maintain records of this requirement.

- Keeping employees at least six feet from one another, including through the use of ground markings, signs, and physical barriers as appropriate.
- Providing face masks to employees and requiring face masks be worn when employees cannot consistently maintain six feet from others. Also considering face shields when employees cannot consistently maintain three feet of separation from others.
- Increasing facility cleaning and disinfection to limit exposure to COVID-19.
- Adopting protocols to clean and disinfect the facility in the event of a positive COVID-19 case in the workplace.
- Making cleaning supplies available to employees and providing time for employees to wash hands frequently or to use hand sanitizer.
- When an employee is identified with a confirmed case of COVID-19, within 24 hours, notifying both the local public health department and anyone who may have come into contact with the person with a confirmed case of COVID-19. Employers must maintain records of this requirement.
- Establishing a response plan for dealing with a confirmed infection in the workplace, including protocols for sending employees home and for temporary closures of all or part of the workplace to allow for deep cleaning.
- Restricting business-related travel for employees to essential travel only.
- Encouraging employees to use personal protective equipment and hand sanitizer on public transportation.
- Promoting remote work to the fullest extent possible.
- Adopting any additional infection-control measures that are reasonable in light of the work performed and the rate of infection in the surrounding community.

Additional protocols are required for businesses in the manufacturing and construction industries, as well as businesses whose work is primarily performed outdoors, research laboratories, offices, retail stores, restaurants, and bars.

## **2. SBA Releases PPP Loan Forgiveness Application Form**

On Friday, May 15, 2020, the SBA released its PPP Loan Forgiveness Application form, available [here](#).

The CARES Act defines the “covered period” for loan forgiveness purposes as the 8-week period following the loan disbursement date. The application confirms this definition although for administrative purposes it offers an alternative period for purposes of

computing payroll costs. If a borrower uses a bi-weekly or more frequent payroll period, the borrower may elect to compute payroll costs based on an Alternative Payroll Covered Period of 8 weeks beginning on the first day of the first pay period following the loan disbursement date. Non-payroll costs must be computed on the basis of the Covered Period.

Borrowers are eligible for forgiveness for payroll costs incurred and payroll costs paid during the Covered Period (or Alternative Payroll Covered Period). Payroll costs incurred but not paid during the Covered Period (or Alternative Payroll Covered Period) are still eligible for forgiveness if paid on or before the next payroll date.

Similarly, to be eligible for forgiveness non-payroll costs must be paid during the Covered Period or incurred during the Covered Period and paid on or before the next regular billing date.

The CARES Act includes in the definition of payroll costs payments for healthcare benefits and retirement benefits. The application clarifies that the borrower may not include the amount of any employee contributions, regardless of whether withheld from employee paychecks and paid by the employer.

For purposes of computing any reduction in forgiveness due to reduction in full-time equivalent employees ("FTEs"), the application permits a simplified method of calculation under which each employee who works 40 hours or more per week is assigned a factor of 1.0 and each employee who works fewer than 40 hours per week is assigned a factor of 0.5.

GMH's Coronavirus Task Force is here to answer your questions. While GMH is complying with Governor Whitmer's Order, we are working remotely and available to assist you. Please contact any of the below lawyers for more Coronavirus support.

*THE LOCAL, STATE AND FEDERAL GOVERNMENT REQUIREMENTS RELATED TO COVID-19 MAY CHANGE, AND ADDITIONAL GUIDANCE, RULES, LAWS AND REGULATIONS MAY BE ISSUED OR AMENDED, AT ANY TIME. ACCORDINGLY, OUR GUIDANCE OR POSITION ON THESE TOPICS MAY ALSO CHANGE, WITH OR WITHOUT NOTICE, AND THE ABOVE INFORMATION IS FOR EDUCATIONAL PURPOSES ONLY AND SHOULD NOT BE INTERPRETED OR RELIED UPON AS LEGAL ADVICE. EACH SITUATION IS UNIQUE AND SHOULD BE REVIEWED WITH THE ASSISTANCE OF COMPETENT PROFESSIONALS.*



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