

Employer Resources from June 11, 2020 League of Oregon Cities Webinar



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Below is a list of resources we have compiled to assist employers as they reopen. Please do not hesitate to reach out to us with any questions you may have.

1. Checklists for Reopening Business After COVID-19 (see Appendix A)
2. Logistical Guidance for Reopening Local Governments' Buildings to the Public (See Appendix B)
3. Sample remote work policy (see Appendix C)
4. Sample social distancing policy (see Appendix D)
5. CDC's COVID-19 Employer Information for Office Buildings (available at <https://www.cdc.gov/coronavirus/2019-ncov/community/office-buildings.html>)
6. OSHA's Guidance on Preparing Workplaces for COVID-19 (available at <https://www.osha.gov/Publications/OSHA3990.pdf>)
7. OHA Mask and Face Covering Guidance (available at <https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/le2288K.pdf>)
8. OHA General Guidance for Employers (available at <https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/le2342C.pdf>)
9. CDC Protocol for Cleaning and Disinfecting Your Facility (available at <https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html>)
10. Markowitz Herbold's COVID-19 Resources (available at <https://www.markowitzherbold.com/press-room/2020/Markowitz-Herbold-Remains-Open-For-Business-during-the-current-coronavirus-pandemic>)

IMPORTANT NOTICES

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Checklists for Reopening Business After COVID-19

GET READY TO REOPEN

An HR Workspace Checklist for Reopening Business Amid COVID-19

While uncertainty looms across American businesses, the best thing we can do as an economy is be well-prepared to reopen. Here are some ideas to keep businesses safe and consumers confident.

- 1 Make a Set of “No Personal Contact” Rules**
Limit handshaking, closed meeting spaces, hugging, or any other physical contact
- 2 Encourage “no item sharing” when possible**
Limit exposure to shared objects, like pens, staplers, notebooks, dry erase markers, desk space, file folders, computers, and anything else that can be assigned to individual workers and not shared.
- 3 Reorganize Your Floor Plan**
Reconfigure workspaces to maximize 6-foot distances between workers, customers, and visitors.
- 4 Get Rid of Common “Gathering” Areas**
Reconfigure office hangout spots to minimize socializing and maximize safe work stations.
- 5 Adjust Breakroom Rules**
Workers will need breaks, legally and mentally. Does your breakroom have enough room to accommodate staff?
- 6 Create Prominent Hand Sanitizing Stations, Complete with Cleaning Supplies**
Invest in safety equipment for both their workers and patrons. Make a point to buy hand sanitizers and make them freely available across your business or office space.
- 7 Post Communal Equipment Cleaning Rules**
If your office has gym equipment, common-use equipment like copy machines, heavy machinery, or industry-specific tools, post clear directions about how to clean equipment between uses to keep multiple users safe.
- 8 Create Appropriate Face Mask Rules**
While heeding federal and local regulations, create face mask rules that are the most appropriate for your line of business.
- 9 Limit the Number of People in a Closed Room**
Post the number of people each room can accommodate and update room booking software accordingly.
- 10 Break the 9-5**
Adjust working hours to accommodate business needs and safety requirements.

Make a set of “no personal contact” rules

Limit handshaking, closed meeting spaces, hugging, or any other physical contact.

Questions to ask:

- Where is contact made between people in a normal situation?
- Is contact necessary?
- Is there any personal protection equipment (PPE) that my staff could use to reduce the transmission of infection for essential contact?
- How and where can I post new no-contact rules to ensure my staff has read and understood our updated policy?

Encourage “no item sharing” when possible

This includes things like pens, staplers, notebooks, dry erase markers, desk space, file folders, computers, and anything else that can be assigned to individual workers and not shared. We recognize not all businesses will be able to afford a zero-tolerance policy of shared work tools, but where, within reason, a limiting of exposure to shared objects, caution should be made.

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Questions to ask:

- What are the essential tools of my business? And who uses them?
- Are there any high-risk staff whose job may increase their risk of infection?
- Are there any PPEs that can help protect my workers?
- What are the items my business can afford to supply all workers with?
- How and where can I post new no item sharing rules to ensure my staff has read and understood our updated policy?

Reorganize your floor plan

What can you do to your work space that will maximize 6-foot distance between workers, customers, and visitors? Can you stagger workspaces? Adjust desks to point towards walls or office partitions?

Questions to ask:

- What are the essential needs for space for my business?
- What are areas that are underutilized today?
- Are there any superfluous areas now that folks need 6-foot barriers, and how can I reimagine those spaces to make room for today's needs?
- What are we using ____, ____, ____ space for?

Get rid of common “gathering” areas

In accordance with the step above, reconfigure your water cooler hang out spots, too. Can you reallocate these communal gathering places for open-air conferences space or more roomy desk arrangements? Before COVID-19 workers liked to share kitchenettes, breakrooms, and staff lounges, but we might not be able to afford such on-the-job luxury spaces. Where can you minimize hang-out spaces and maximize 6-foot distances?

Questions to ask:

- Do you have common gathering areas?
- How do your employees naturally hang out? And where?
- While not eliminating employee camaraderie, what's the best approach to minimize staff exposure to one another?

Close breakroom hangouts

Workers will need breaks, legally and mentally. But how will you handle them? Previously, restaurant and retail breakrooms could be found with several staffers relaxing on worn out couches, quickly eating snacks or cracking jokes before returning to the floor.

Now, these breaks need to be monitored. Is your staff 6 feet apart? Does your breakroom have enough room to accommodate the amount of workers who would be taking a break at once? What about smoke breaks and lunch breaks? Are there signs posted to wash hands before re-entering the workflow after breaks, just as there were in restrooms?

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Questions to ask:

- What breaks or time off standards are required in your line of work, and how does your physical space address these needs?
- Are there any easy ways to improve those spaces to make them less partial to contagion?
- What are you doing to clean these spaces? Is there any way to improve?
- Do you have signs posted for staff workers to ensure they are washing their hands with soap and water for 20 seconds before returning to work?

Create prominent hand sanitizing stations, complete with cleaning supplies

Hand sanitizer might be your newest line item on your profit and loss statement (P&L). Businesses are going to need to invest in safety equipment of both their workers and patrons to keep the confidence of consumers coming back. If your shop feels risky, shoppers might not return. So make a point to buy 60% or more alcohol per volume hand sanitizers and make them freely available across your business or office space.

Questions to ask:

- Are you able to afford hand sanitizer stations?
- Where would be the best place(s) to put hand sanitizer stations?
- What signage would you need to create?
- Are there hand sanitizer dispensers available for guests, visitors, mailmen, clients, friends, neighbors, customers?

Post communal equipment cleaning rules

If your office has gym equipment or common-use equipment (such as copy machines, metal machinery, and industry-specific tools) consider posting clear directions about how to clean the equipment between uses to keep multi-users safe.

Questions to ask:

- What are the most common communal equipment uses in your line of work?
- Are these shared?
- What are the equipment cleaning considerations you deem reasonably required to keep clean of COVID-19 or other germs?
- Are there any training sessions needed to ensure the safety of staff while increasing their cleaning responsibilities?
- How much time would you expect this to take?
- Does that impact the expectations of each individual contributor's workloads?

Create appropriate face mask rules

States and companies are able to make individual requirements regarding face mask requirements. For instance, Ohio Governor Mike DeWine [is requiring](#) face coverings for employees and clients/customers at all times. And JetBlue, the airline company, was the first to require [both staff and passengers](#) to wear face masks at all times during travel. While heeding federal and local regulations, create face mask rules that you deem are the most appropriate for your line of business. Then, update your

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employee handbook with your new policies, and make sure employees are clear with your expectations of both them and the customers you serve.

Questions to ask:

- How close are my employees to customers?
- How much do you think wearing face masks would increase the confidence of your employees and clients?
- What is your budget for PPE?
- Is it reasonable to expect face mask policies? For how long?
- What all would go in your policy, and what are the consequences for employees who break conduct?

Limit the number of people in a closed room

If you must have a “closed-room” discussion after opening your office, assess the options to either:

1. Host the discussion in a large enough room to give each attendee a 6-foot space between one another, or
2. Host the meeting virtually, wherein each participant may be under the same roof, but the meeting still takes place via a web conferencing tool online, to minimize direct exposure.

As a general rule, post the number of people each room can accommodate, and make sure to update room booking software accordingly. For instance, if your conference rooms were bookable for 10 people before coronavirus, and now it is deemed that the space can actually only host 3 to 4 people, update the preferences so that employees aren’t making inadvertent errors in booking meetings.

Questions to ask:

- How many conference rooms do you have / do you need?
- Are there any ways to conduct business virtually?
- How many people can safely fit in your conference rooms now?
- Are there adequate cleaning supplies and ventilation systems to prevent the transmission of COVID in these spaces?
- Do you feel comfortable with your workers using these spaces for group discussions?

Break the 9-5

The 9am to 5pm workday might be under societal scrutiny as group dynamics wane in favor for distanced interactions between people. And, it’s not just the 9-5ers who need to consider this, but how can your business adjust its hours of operation all together to make room for something new.

Questions to ask:

- What are other ways your business could reduce the likelihood of infection?
Could you stagger workdays into shifts where employees come at non 9-5 hours based on team or function?
- What are the parts of your business’ products of services that can remain remote? As an example, consultancies often set up in-person “discovery meetings” with new clients. Could this remain virtual moving forward?
- Would employees consider working weekends for two days off during the weekday?

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Then, after you've made your new policies ...

After you've formulated your new policies, it's critical that you document those policies for employees to access and review. The best way to do this is to update a digital employee handbook. The employee handbook, if you don't already have one, is a singular place for your company to publish policies, expectations, recourse for misconduct, and more. A digital copy makes it easy for a company to update and disseminate information as it changes.

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Real-Time Risk



TIMELY NEWS AND TIPS TO HELP REDUCE RISK

May 2020

Logistical Guidance for Reopening Local Governments' Buildings to the Public

On May 7, 2020, Governor Brown announced plans to tentatively and slowly lift restrictions placed on citizens, businesses and employers pursuant to her stay-at-home order (Executive Order 20-12). These plans, developed by the Governor's policy advisors in consultation with others, addressed (among other issues) the use of face masks on a statewide basis and conditions individual businesses must comply with to reopen. The Governor's guidance and other resources can be found [here](#).

The Governor's plans were not specific to local governments who wish to reopen their buildings to the public. Local governments working in counties whose Phase 1 plans have been approved by the State of Oregon, however, may have questions about how they can reopen their buildings to provide in-person services while maintaining a safe workplace for the employees who would be providing these services.

¹Previously, on April 14, 2020, Governor Brown released "Reopening Oregon: A Public Health Framework for Restarting Public Life and Business while maintaining healthy Oregon communities" ("[Framework](#).")

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CIS provides this Logistical Guidance and checklist of considerations to assist local governments as they develop plans to reopen their buildings to the public. It is designed to be useful to the widest possible audience and may require personalization to address the unique needs of your organization or a particular department within your organization. If the local government works in a county whose Phase 1 plan has been approved by the State of Oregon, any reopening plans must be made in conformance with the Phase 1 plan.

The “Big Picture” and the Legal Requirements Placed on Local Governments

1. Lack of available testing, no reliable COVID-19 antibody test, no vaccine. Limited capacity for large-scale contact tracing.
2. Meanwhile, OR-OSHA requires local governments and all other employers to provide a safe workplace for their employees, even during a pandemic. See [Interim Guidance for Oregon OSHA Related to COVID-19](#) (“First and foremost, employers do need to understand that, even in unusual times like this, employees are still exposed to hazards and it is still the employers’ responsibility to ensure that their employees are adequately protected from those hazards.”).
3. Under Title II of the Americans with Disabilities Act, local governments are required to ensure (among other provisions) that qualified individuals with disabilities are protected against discrimination on the basis of disability in the “services, programs, or activities” of local governments. Similar provisions in other federal and state laws prohibit other kinds of discrimination with respect to the services, programs or activities provided by local governments.

Bottom Line: A local government must provide equal access to its services, programs, or activities. But there appears to be no law that gives a citizen a right to access local government buildings if the “services, programs or activities” located in those buildings are made available via other means. This is consistent with municipalities’ right to enact and enforce trespass ordinances.

Consider What Requirements (if any) the Local Government Will Impose on Visitors

1. **Identify which services require in-person contact.**

As a preliminary matter, the local government should identify essential services that require in-person attendance by members of the public as opposed to services members of the public may desire to conduct in person, but can be conducted other ways.

For example, a citizen might prefer to pay a utility bill in person, but such a service does not require in-person attendance or personal contact with a local government employee. Alternatively, a municipal court may have good reason to require in-person presence of a defendant in a criminal proceeding. In all cases, the local government must identify legitimate

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differences in the nature of the services that justify in-person presence by the citizen in one situation versus another, and provide equal access to services to those citizens who will be denied in-person contact with local government employees.

This is consistent with the State of Oregon's plan to gradually modify Governor Brown's stay-at-home order and re-open services and businesses to minimize the likelihood of further COVID-19 infection. See Executive Order No. 20-12; "[Reopening Oregon: Details on Restarting Public Life and Business](#)" (issued May 7, 2020). Similarly, OR-OSHA "encourages" local governments to:

close to the public to the maximum extent possible and to provide services by phone and online during regular business hours. When contact with the public must take place, social distancing measures must be enforced to the maximum extent possible . . . [and] requires teleworking to the maximum extent possible. (See [Interim Guidance for Oregon OSHA Related to COVID-19](#).)"

2. Identify which buildings will open.

It is recommended that local governments not open all of their buildings to the public at first. Instead, CIS recommends selecting one or two buildings where citizens are most likely to visit in person to conduct services, and where in-person services can be provided in a manner that protects both the visitor and employees as much as possible². This gives the local government time to test its procedures and safety and cleaning protocols, and to make adjustments as needed.

If there are more than two buildings that citizens frequently visit, consider temporarily moving the personnel from those buildings to the one or two selected by the local government for public access.

3. Identify which employees must be brought back into the workplace, if they are currently working remotely, and plan for those employees' return.

CIS will be issuing more detailed guidance on this in the near future. In the meantime, various government agencies have issued guidance that will be of assistance to local governments with this planning process:

- The CDC's "[Cleaning and Disinfection for Community Facilities](#)"
- The Oregon Health Authority's "[Oregon General Guidance for Employers on COVID-19](#)" (issued May 7, 2020)
- OR-OSHA's "[Interim Guidance for Oregon OSHA Related to COVID-19](#)"
- OSHA's "[Guidance on Preparing Workplaces for COVID-19](#)"
- The CDC's "[Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 \(COVID-19\)](#)"
- The EEOC's "[What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws](#)" and "[Pandemic Preparedness in the Workplace and the Americans with Disabilities Act](#)."

²For example, consider which building has the widest hallway so that social distancing guidelines (six feet apart) can be adhered to. Consider whether certain "front desks" can be equipped with plastic "walls" or protective shields to prevent transmission of the virus. Finally, consider whether a building can provide one-way signage to control the flow of foot traffic, and specific entrances for exiting and entrancing.



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4. Decide what requirements (if any) will be imposed on in-person visitors.

CIS recommends that any member wishing to open their buildings to the public implement some level of safety protocols to protect their employees and minimize the likelihood of COVID-19 infection. Pursuant to Governor Brown's recent reopening plan, face masks are now recommended in most circumstances (see below). **Whether a member chooses to use some or all of the options below is up to the individual member; there may also be other options not listed here.**

Option a. Consider requiring, initially, that all in-person meetings will be arranged by appointment only; no walk-ins.

Limit appointments during normal business hours to ensure that the local government's cleaning and disinfecting protocols are applied between visits, and to adhere to social distancing guidelines.

Option b. Consider requiring visitors to wear masks before entering a building.

The wearing of "face coverings" is recommended by the Oregon Health Authority:

Consistent with the Centers for Disease Control and Prevention (CDC) recommendations, the Oregon Health Authority recognizes the use of face coverings may reduce the spread of COVID-19 among Oregonians. This includes viral spread from people who have the infection, but no symptoms. As businesses and public spaces reopen in Oregon, it may be difficult to always keep 6 feet between people. Therefore, OHA recommends that the public use face coverings in businesses and public settings.³

Similarly, Governor Brown's "Statewide Face Covering Policy" now "strongly recommends" that: (1) "businesses where employees are required to wear face coverings establish a mandatory face-covering policy for their customers as well⁴;" and (2) "a mask or cloth material that covers the nose and mouth be worn in any indoor public space, especially where six feet of physical distance cannot be maintained."

See [Reopening Oregon: Details on Restarting Public Life and](#)

³See <https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/le2288K.pdf>. Dated May 2, 2020.

⁴An employer, per the EEOC, can require employees to wear masks because of "direct threat" implications during a pandemic such as this one. See "[Pandemic Preparedness in the Workplace and the Americans with Disabilities Act](#)" (dated March 21, 2020).

NOTE: Because local governments are subject to the public accommodation provisions of the Americans with Disabilities Act, accommodations may need to be provided to citizens who are unable to wear a face mask due to a legitimate health reason (e.g., a person with a respiratory condition who cannot have their breathing restricted). In that situation, the local government should attempt to accommodate that citizen in an alternative manner that would continue to protect the local government's employees and other visitors while also providing service to the citizen (e.g., assistance via online or telephone services).



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Option c. Consider taking the temperature of all visitors.

Currently, neither the federal government nor the State of Oregon have issued any mandates to local governments or businesses to take the temperatures of visitors/customers.

In the employer-employee context, however, it is clear that employers can take the temperatures of employees returning to the workplace as a screening tool. See OR-OSHA's guidance ("[Interim Guidance for Oregon OSHA Related to COVID-19](#)") Under Oregon and federal disability law, an employer can require employees to undergo temperature testing because of "direct threat" implications during a pandemic such as this one. See, e.g., "[Pandemic Preparedness in the Workplace and the Americans with Disabilities Act](#)" (dated March 21, 2020).

Because local governments would be taking a visitor's temperature to screen out individuals who might pose a health risk from COVID-19 infection to employees or other visitors, such a practice appears acceptable under the law. CIS, however, does not take a position as to whether members should require visitors to have their temperature taken. CIS provides some best practices recommendations for implementing a program to take visitors' temperatures below for those members who wish to do so.

Option d. Consider requiring COVID-19 health information from all visitors (or those who have a particular temperature).

Currently, neither the federal government nor the State of Oregon have issued any mandates to local governments or businesses to conduct COVID-19-related health assessments of visitors/customers. The State of Oregon has imposed such a requirement on "personal services" businesses that would apply equally well in the local government setting. See [Guidance for Personal Services Providers](#) (issued May 11, 2020). Following the State's guidance, local governments could ask the following questions of anyone with an appointment (before entering the building):

- Have you had a cough?
- Have you had a fever?
- Have you had shortness of breath?
- Have you been in close contact with anyone with these symptoms or anyone who has been diagnosed with COVID-19 in the past 14 days?

If the visitor says "yes" to any of these questions, the local government would then deny access to the building until 14 days have passed or until the visitor presents information from a health care provider stating that the visitor has not tested positive for COVID-19.

NOTE: Oregon disability law and the Americans with Disabilities Act prohibits employers from taking the temperatures of **applicants**, even if they are being treated like all other visitors to a local government's building. Instead, interview applicants via telephone or video conferencing. Or implement an exception to the mask-wearing policy for applicants, but ensure that social distancing is used, and all cleaning protocols applied.

NOTE: If a local government wishes to ask such questions of visitors, it should do so only after consulting its county's contact tracing guidelines. Those guidelines should be consulted regarding whether specific questions might trigger reports to the county, and what the local government should do with the information it collects, particularly if a visitor answers "yes" to any of the questions asked.

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Option e. Consider refusing entry to any visitor who shows signs of COVID-19 infection.

A local government could choose to deny access to one of their buildings if the visitor is observed coughing, appearing short of breath, or showing any of the recognized signs and symptoms of COVID-19 infection. Signs outside the buildings open to the public could instruct visitors that they should leave if they show any of the signs or symptoms. Consult the latest CDC and OHA guidance for the recognized signs and symptoms of COVID-19 infection.

5. Publicize the local government’s plan for re-opening some buildings, and the requirements that will be imposed on visitors.

This helps educate visitors about what to expect, and how to prepare. From a legal perspective, notice about what procedures will be required (e.g., temperature taking, COVID-19-related questions) will make it more difficult for the visitor to argue that privacy rights were violated. It is extremely important to list all restrictions and requirements the local government will be implementing and using, and to discuss the consequences of a visitor who does not comply.

Some other suggestions:

- a. Use as many different means as possible to educate the public. Consider social media platforms, press releases, website updates, and email signatures. Post a sign at the entrance of each building that will be open to the public.
- b. If temperatures will be taken of all visitors, be clear about what happens if a visitor has a temperature above a certain number (discussed below).

- Specify why the testing is occurring and how the information will be used.

Example: “We’re taking the temperature [and asking COVID-19-related questions] because we want to provide a safe environment for our visitors and a safe workplace for our employees. We are not asking for general health histories or genetic information. We are not asking for personal identifying information, so nothing will be reported to health authorities.”

If the local government’s county has any contact tracing requirements in connection with the temperature taking, this should be noted in the announcement.

- c. If masks will be required, explain why — similar reasoning to temperature taking.
 - Consider whether the local government will provide masks to those who don’t bring them.

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- Note that exceptions to the policy will be provided to accommodate people with certain health conditions (discussed above), or children under two years of age.
 - Take into account that requiring people to wear face coverings affects people differently including people of color who may have heightened concerns about racial profiling and harassment due to wearing face coverings in public.
- d. If in-person appointments are allowed, provide information about how to request an appointment, how the appointments will be staggered, and describe what safety measures are in place to protect both the visitor and the local government's employees once the visitor is inside the building.
- If possible, during the scheduling of initial in-person visits, let potential visitors know about alternatives to in-person meetings. Remind the potential visitors that alternatives are provided out of the local government's interest in their own health and the health of their family members, and those who work for the local government.

Best Practices for Implementing a Program for Taking Visitors' Temperatures During the COVID-19 Pandemic

This "best practices" guidance will be updated as new information is received from Oregon and federal health authorities. See, e.g., [Interim Guidance for Oregon OSHA Related to COVID-19](#).

1. Find the most noninvasive manner in which to take someone's temperature.

Look for a device that eliminates or significantly minimizes contact between the employee who is taking the temperature and the visitor.

- What cleaning or disinfecting protocols need to be followed to re-use the temperature-taking instrument?

2. Regardless of the manner used, the employees who will be taking the temperatures should receive training and the local government should have proof of that training.

This is not a situation where an employee simply grabs a thermometer off the shelves of a local store and starts using it after reading the pamphlet that comes with the thermometer. It is possible — though not yet verified — that the Red Cross or a local health authority (maybe a county) could provide some kind of training.

- If training is not available, make sure that the employee administering the temperature check has ample time to review all instructional materials available relating to the device that will be used.



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- Also, the local government should determine what the appropriate protocol will be if there is an error or a result that seems inconsistent with common sense (examples: the reading is below 97 degrees, or above 110 degrees).

The local government needs to designate a handful of people for this task — it can't just be anyone who is available on a day in question.

The local government must also provide adequate personal protective equipment for the employees who will be administering the temperature test.

3. There needs to be a decision about what temperature renders a visitor unable to enter a building.

- One suggested standard: 100.4 degrees or more, based on CDC guidance regarding what is a "fever."

4. The local government will need to decide what to do if a visitor has a temperature that meets or crosses the temperature threshold established by the local government.

A local government appears to be able to lawfully take one of two approaches if a visitor came to one of their buildings with a temperature higher than the local government's designated temperature:

- Ask follow-up questions limited to the symptoms typically shown for someone who is infected with COVID-19. Although this seems invasive, it is what the CDC and EEOC recommends for employees. With proper notice, and with proper limitations on the scope of the questions asked, this should be allowed by law⁵; or
- Don't let anyone in the buildings who has a temperature that is higher than 100.4, regardless of the reason. This would eliminate the need for asking questions about COVID-19 symptoms and avoid the concern about keeping information on a citizen's health.

In either situation, train employees to discreetly tell the visitor about their temperature reading and find out if there is an alternative way to provide the services the visitor seeks.

Alternatively, if the visitor came back to the building with a note from a health care provider indicating that they tested negative for COVID-19 within a certain reasonable time period, they would be allowed to enter.

Depending on the State's or local county's contact tracing requirements, the local government may need to keep a confidential record of the visitor's temperature reading and other personal identifying information. See discussion below regarding "Contact Tracing" for more discussion about possible record-keeping ramifications. Consider simply recording "no" (meaning the employee's temperature is under the appropriate

⁵There is so little a local government can ask under Title II of the ADA when it comes to citizens with disabilities who want access. Thus, the questions asked of a visitor who has a temperature that meets or exceeds the local government's temperature threshold must be limited in scope and limited to COVID-19-related situations.

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threshold) or “yes” (meaning the visitor has a fever at 100.4 degrees or above) for each visitor, instead of recording each visitor’s individual temperature.

Responding to Visitors Who do Not Abide by the Local Government’s Restrictions

The local government should initially deny access to the visitor who refuses to comply with the published requirements for entering buildings. As noted above, the employee(s) denying the access should be prepared to explain to the visitor what must occur for the visitor to have access to the building (discussed above). Let the visitor know what the options are for accessing local government services without in-person participation.

Any employee who is confronted with a visitor who becomes angry or threatening should follow the local government’s policy and procedure on addressing potential and real acts of violence in the workplace. This may require the employee to be trained to contact local law enforcement for assistance and protection.

As a last resort, the local government may wish to issue a temporary trespass order against an individual who refuses to comply with the published requirements. Although this may not have yet been tested in an Oregon court during this pandemic, the argument would be that the local government needs to protect law-abiding citizens in their use of public buildings, and the employees who work there, and that by failing to follow the local government’s reasonable requirements for building use, the visitor is attempting to engage in conduct that is unsafe and disruptive. The local government should review their ordinance or charter provision relating to the exclusion of individuals from their public places to determine whether it could be used during the pandemic.

Contact Tracing

Governor Brown requires counties who seek to reopen under the phased reopening plans to “have a minimum of 15 contact tracers for every 100,000 people. Every county must be prepared to contact trace 95% of all new cases within 24 hours.” See [“Prerequisites for Phased Reopening of Oregon”](#) and [“COVID-19 Interim Investigative Guidelines”](#) (issued May 1, 2020).

Local governments wishing to reopen their buildings to the public must consult with their respective county health authorities to determine whether any reopening strategy implicates the county’s contact tracing requirements and to comply with those requirements, as needed. Some issues that will need to be considered:

1. Is a temperature above the reading identified by the local government enough to trigger the requirement to collect personal identifying information from the individual with a high temperature?

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- What if the individual has a high temperature but denies any other symptoms (and no other symptoms are observed)?
2. What information does the State/County require us to collect?
 3. What safeguards must be put in place to ensure that the maintenance of such information is not inadvertently disclosed? Does the State/County tell us anything about this?
 - Is such information protected from publication under Oregon's public records laws?
 4. How long is such information kept? Which [Oregon Secretary of State Record Retention Schedules](#) apply? If an employee collects contact tracing data or receives information from a visitor indicating possible COVID-19 infection an exposure to a "harmful physical agent" that requires recordkeeping pursuant to [OR-OSHA regulations](#)?
 5. How do we communicate to visitors what information is collected, and why it's being collected? Example: "This business is collecting basic information to share with public health in the event a COVID-19 case is identified associated with this business."

Parting Thoughts

Although there is great and understandable temptation to "return to normal," local governments do not have the luxury of reopening buildings without the potential for liability. Neither do local governments have the "luxury" of simply shutting down operations. Until and when adequate testing becomes available, until a vaccine can be administered on a widespread basis, all local governments should think twice before jumping to the conclusion that all buildings must be open to conduct business.

In addition to reopening buildings on a gradual basis with thoughtful planning and putting protocols in place, it is recommend that local governments do a review of how its existing services have been provided during the pandemic and find out where (if at all) there has been a shortcoming — and how can that shortcoming be addressed? Is opening a building up to the public the only way to address the service shortcoming?

CIS remains available to assist its members with questions regarding the reopening process.



APPENDIX C

Sample remote work policy

COVID-19 Temporary Remote Work Policy Overview

As a part of **THE COMPANY'S** continued response to the novel coronavirus (COVID-19) pandemic, **THE COMPANY** may allow employees to temporarily telework (work remotely or work from home) during the time period between _____, 2020 and _____, 2020. Under the temporary remote work policy, employees will perform essentially the same work that they would on-site in accordance with performance expectations and other terms determined by their supervisors.

THE COMPANY may support remote work arrangements for staff in some situations based on the individual's request and **THE COMPANY'S/DEPARTMENT'S** ability to accommodate the request in accordance with a specific contingency plan. Remote work arrangements may not be feasible in all cases and requests should not compromise continuity of operations for members of **THE COMPANY** and the performance of essential functions of each office and department.

Remote Work Agreement: The temporary remote work request form is accessible via []. Once submitted, **your direct supervisor** may contact you for additional information and/or ask you to further explain (1) how you plan to fulfill work expectations remotely and (2) how you plan to communicate regularly with co-workers, supervisors, and members of **THE COMPANY** during regular work hours. If approved by [**supervisor**], a remote work agreement must be executed by the appropriate parties prior to beginning remote work.

Work performed remotely or from home is considered official **COMPANY** business; therefore, [**DEPARTMENTS/GROUPS**] may establish specific conditions that apply to employees engaged in remote work.

Termination of the Temporary Remote Work Agreement: **THE COMPANY** reserves the right to modify the temporary remote work arrangement at any time. Employees may be required to return to the central workplace if deemed as having performance or work conduct problems, or if **THE COMPANY** feels it is in the best interest of **THE COMPANY** and/or the employee to modify or suspend the arrangement, either permanently or temporarily.

Hours of Work: The amount of time and work hours that the employee is expected to work will not change due to participation in a temporary remote work agreement. Hours of work should remain the same unless specified in the agreement. The employee agrees to apply themselves to work and be available to communicate with their co-workers, supervisor(s), and members of **THE COMPANY** during work hours. Normal procedures will be followed for the approval of overtime and use of leave. Nonexempt employees are responsible for reporting all hours worked each week. Failure to report time, like failure to obtain approval for overtime, can result in the termination of the temporary remote work arrangement or other disciplinary action.

Compliance with **COMPANY** Policies: Employees must agree to comply with **COMPANY** rules, policies, handbooks, practices, and instructions and understand that violation of such may result in the

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termination of the temporary remote work arrangement and/or disciplinary action, up to and including dismissal.

Security of Information and Records: Employees must use secure remote access procedures and are responsible for the security of all documents and records in their possession while remote working and must adhere to **THE COMPANY'S IT** and other security procedures to ensure confidentiality and security of data. Employees working remotely agree not to share individual log-in passwords with anyone outside of **THE COMPANY**. Any use of restricted-access information or materials at an alternate work location must be approved and described in the remote work agreement, along with procedures for removing and returning those materials. Employees approved to telework agree that their access and connection to **THE COMPANY'S** network(s) may be monitored to record dates, times, and duration of access. If any unauthorized access or disclosure occurs, the employee must inform the direct supervisor immediately.

Equipment and Materials: Employees approved to telework must agree to use equipment provided by **THE COMPANY** and supplies for business purposes only and to notify the supervisor immediately of equipment malfunction in order to schedule repair or replacement. Please work with the [] at 555-555-5555 to address any of these issues. Any damage or theft of the equipment should immediately be reported to the supervisor. **COMPANY**-owned equipment used in the normal course of employment will be maintained and repaired by the **COMPANY**. Employees approved to telework must return all **COMPANY**-owned property when the remote work arrangement ends. When employees are authorized to use their own equipment, the department will not assume responsibility for costs of repairs, maintenance, or service.

Other Costs: Under this temporary policy, **THE COMPANY** is not responsible for operating costs (such as electric bills, internet, etc.), home maintenance, or other costs incurred by employees in the use of their homes as alternate work locations.

Liability: **THE COMPANY** assumes no responsibility for injuries occurring in the employee's alternate work location outside the agreed-upon work hours, or for liability damages to employee's real or personal property resulting from participation in the telework program. Workers' compensation coverage is limited to designated work areas in employees' homes or alternate work locations. Workers' compensation does not apply to injuries of any third parties or members of the employee's family on the employee's premises. Employees agree to practice the same safety habits they would use in the workplace and maintain safe conditions in their alternate work locations. Employees must follow normal procedures for reporting illness or injury. Please contact **Human Resources** if you have any questions regarding this policy or if you have questions about teleworking that are not addressed in this policy.

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COVID-19 Temporary Remote Work Request Form

Complete this form to request a temporary remote work arrangement from _____, 2020 to _____, 2020, and obtain approval from your supervisor. Department operations and office coverage will be considered before requests are approved. Send the signed copy as an attachment to Human Resources at _____.

Temporary Remote Work Option - Employee Completes

Name: _____

(company name) E-mail Address: _____

Job Title: _____

Department: _____

Begin Date: _____

End Date: _____

Provide details about how you will complete your work effectively under this requested arrangement:

Detailed plan to fulfill work expectations:

Detailed plan how communications with co-workers, supervisors, and community members will occur during your regular work hours.

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I understand that (Employer's name) may modify or suspend the temporary remote work arrangement at any time.

Employee's Signature: _____

Date: _____

Adjusted Work Arrangement - Supervisor Completes

Approved _____

Approved with Adjusted Date(s) _____

Begin Date: _____

End Date: _____

Not Approved _____

Comments:

For security purposes, all remote work must be performed using a (company name)-issued device connecting through a (company name) VPN. (Company name) office phones may be forwarded to (company name) mobile phones. Remote workers must always adhere to (company name) IT best practices and our Information Security Policy published online at:

Approval Signatures

Supervisor

Date

Department Head

Date

Human Resources

Date

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APPENDIX D

Sample social distancing policy

To reduce the spread of COVID-19 and to comply with the Oregon Governor's Executive Order 20-12, the following Social Distancing Policy is in effect until further notice:

Remote Work. The [company] has transitioned all employees to remote work except for [redacted]. [One employee] will come to the office from 8:00-4:30 each day to [redacted]. No other employees are approved for coming to the office, even for short trips or after hours, without first contacting [the Operations/HR Director] to work through alternatives and/or for approval and to coordinate details and timing. If [the Operations/HR Director] is not available, a *backup* contact for this is [redacted].

In-Office Protocols (for individuals with permission to be at the office)

1. Anyone who is experiencing [symptoms](#) of sickness is prohibited from coming to the [office]. And anyone who comes into the office and begins to feel sick should immediately leave and notify [the Operations/HR Director].
2. Upon arrival at the office, individuals must wash their hands with soap and water and wipe down door handles and hard surfaces with disinfectant wipes. Immediately report any shortages of soap or disinfectant wipes to [the Operations/HR Director].
3. While working in shared space, use the 6-foot rule for social distancing at all times. No exceptions. Do not shake hands with another person or touch another person in any form.
4. To every extent possible, allow 15-30 minutes before walking into airspace that another person has been in. Set materials out in advance that are to be picked up and allow wait time before retrieving items that have been dropped off.
5. Wash your hands frequently. Wash them after you touch any paper, envelope, package, or other hard surfaces that have been touched by another person.
6. Routinely wipe down door handles and other hard surfaces that are touched by you or another person.
7. Remember to keep your hands away from your mouth, nose, and eyes at all times, and especially with unwashed hands.
8. Cover sneezes and coughs with a tissue or sleeve, and then throw the tissue away.
9. Help ensure that everyone you encounter understands and follows the in-office protocols listed above.
10. Upon arrival at home, wash your hands with soap and water.
11. Report any issues or questions that arise to the [Operations/HR Director].

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