

# PUBLICATION

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## Reopening Considerations for Retail & Mixed-Use Property Owners

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April 30, 2020

**COVID-19 shelter-in-place and stay-at-home restrictions are beginning to expire or loosen, allowing businesses in retail and mixed-use properties to resume or expand their day-to-day operations. In preparation, owners of retail and mixed-use properties (and their property managers) should be evaluating and, where appropriate, modifying typical operational practices at their properties. As they prepare for the resumption of business at retail and mixed-use projects, property owners and managers may wish to consider taking some of the following steps:**

- Regularly review state and local operating requirements and share those requirements with tenants, so all can understand and comply with applicable requirements.
- Issue reminders to tenants that tenant operational practices (and those of their vendors, suppliers and contractors) must comply with state and local requirements, at a minimum.
- Understand and plan for phased reopenings. It is unlikely businesses will immediately resume full "normal" operations. Applicable law may dictate graduated steps toward full reopening. Regardless of governmental restrictions, many retailers and restaurants may elect to voluntarily phase resumption of business in an effort to protect employees and customers. Property owners may need to plan for phased changes in retailer operations.
- Engage regularly with tenants and continue collaborative efforts to assist tenants in safely reopening and ramping up operations. Business operational practices (and legal requirements) may change frequently. Regular contact with tenants will be critical to understanding tenant needs and plans and to facilitating a smooth reopening process.
- Recognize that not all businesses are the same and that what works for one may not work for all. Consideration should be given to the workability of property-wide operating expectations, such as those provisions in leases requiring tenants to adhere to particular minimum operating hours. Flexibility, where appropriate, may be helpful.
- Encourage and help facilitate, where appropriate, business practices targeted at reducing COVID-19 community spread. Examples include such practices as (a) the wearing of masks and other personal protective equipment by employees and customers, (b) restaurants and retailers offering curbside pick-up, (c) tenant introduction of customer queuing areas outside store entrances to enhance social distancing inside stores, (d) placing limitations on the availability of public restrooms, and (e) limiting occupancy inside stores and restaurants. Property owners may need to temporarily adjust their staffing, security, parking, cleaning, lighting and other practices to accommodate tenant practices.
- Communicate change clearly and quickly. If owners implement changes in their own operating practices that may also impact tenant operations (for example, property-wide social distancing restrictions, changes in property operating hours, traffic restrictions, closure of common area facilities, changes in housekeeping services and security deployment, etc.), those changes should be

communicated to tenants as soon as possible. Owners may wish to give consideration to providing daily updates to tenants, at least initially, and to temporarily augmenting or amending the existing rules and regulations for the property.

- Leave certain common areas, such as playgrounds, public restrooms, food court seating and similar facilities closed for now. In areas that remain open, owners may need to adopt capacity limits within certain common areas (and, if adopting capacity limits, owners will need to have a plan to monitor capacity). Owners should continue (or employ) enhanced cleaning, sanitization and hygiene measures in common areas and on frequent touch surfaces (e.g., door handles, countertops, tables, chairs, touchpads, point-of-sale systems, etc.). Owners should comply with hygiene recommendations from the CDC and other government agencies.
- Even if technically allowed by applicable law, temporarily refrain from hosting or permitting onsite any large-scale gatherings of people, such as festivals, walks and fun-runs, art shows, concerts and other typical on-property marketing events, and evaluate all such events scheduled for the remainder of the year. Owners should consider creative alternative marketing and promotional activities.
- Continue efforts to ensure that employees and customers are aware of operating practice changes. Owners should keep websites updated and should utilize other communication channels, such as social media, text messaging and property signage, to notify customers and employees of steps being taken by the property owner, and, as appropriate, by tenants. If a property owner utilizes a published customer code of conduct at a property, it should consider updating and republishing its code to incorporate applicable operational changes and expectations for customer conduct on property, including those imposed by governmental requirements.
- Evaluate all "non-essential" property activities, such as routine and non-emergent maintenance, and temporarily defer those activities.
- Require property vendors to adhere to owner-specified safety measures and those required by applicable law.
- Plan for future intermittent closures that may be required as a result of subsequent waves of COVID-19 infections and update emergency response plans and communications protocols accordingly.

If you have questions on this alert please contact [Jeff Pomeroy](#) or one of the members of [Baker Donelson's Retail and Mixed Use Group](#). For more information please visit our website page [Coronavirus \(COVID-19\): What You Need to Know](#).