

## Executive Order 2020-033 Extends Mandatory “Shelter-In-Place” and Updates Exemptions

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### PRACTICE AREAS

- Government Affairs & Public Policy

### An McV Government Affairs Alert

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On April 12, 2020, Governor Wanda Vázquez-Garced signed **Executive Order 2020-033** (“[EO 2020-033](#)”) to, among other things, extend the period of mandatory “Shelter-in-Place” issued under **EO 2020-023**, extended by **EO 2020-029**, and further amended by **EO 2020-032**. This current extension eases certain limitations imposed by previous executive orders and administrative bulletins after considering the recommendations made by the heads of various government agencies and components of the Puerto Rico Medical and Economic Task Forces.

### **Shelter-In-Place and Exemptions**

***Beginning on April 13, 2020 and ending on May 3, 2020, a mandatory “Shelter-In-Place” order requiring all Puerto Rico residents to remain in their residence or place of lodging shall be in effect.*** During this period, individuals are required to stay in their residence or lodging 24 hours a day, seven days a week, and may exit their residences or lodging from 5:00 a.m. to 9:00 p.m. solely for the following reasons:

- To attend medical appointments, visit hospitals, clinical labs, or hospital/ medical service centers
- To acquire or purchase food, medicines and first care products
- To visit any of exempted businesses to attend a necessary or urgent matter
- To procure exempted services (as defined further below)
- To provide exempted services

Persons who allow individuals to assemble in their residences, other than members of their family, will be deemed to be in violation of OE 2020-033.

### **Quarantine Order**

Section 2 of EO 2020-033 orders persons suspected of having been exposed to or diagnosed with COVID-19 to remain in their residence for a period of 14 days, regardless of whether they show any symptoms or not. Likewise, persons

## Executive Order 2020-033 Extends Mandatory “Shelter-In-Place” and Updates Exemptions

diagnosed with COVID-19 must also remain in their residence for a period of 14 days as instructed by their doctor.

### **Government Offices Closed and Exceptions**

Section 3 of EO 2020-033 requires government employees to provide services remotely but orders government offices to remain closed to the general public. Remote work will be coordinated by each agency. However, essential government employees will continue working in accordance with the work plan already adopted by their agency.

### **Guidance established by Government Agencies**

The provisions of EO 2020-033 may be supplemented by regulations or guidance issued by government agencies. Agency directors who identify essential services not exempted in this Executive Order may request the Governor’s Chief of Staff to exempt said services.

### **Private Businesses to remain closed and Exceptions**

***EO 2020-033 orders all private businesses to remain closed from April 13, 2020 through and until May 3, 2020.*** This includes movie theaters, night clubs, concert halls, theaters, game salons, casinos, theme parks, gyms, bars, or other similar establishments.

The following businesses are **exempted** from the shutdown order:

#### ■ **Food**

- Retail and wholesale food services. Sale of prepared food or meals solely by means of a drive-thru, carry-out, or delivery service (dining sections must remain closed to the public). Retail food businesses such as fresh food kiosks (fruits, greens and vegetables) opened before March 15, 2020, may remain open if adequate safety measures are adopted in order to safeguard the public’s health (e.g., face masks, gloves, disinfectants, etc.) and prevent large group gatherings.
- Businesses related to the food and beverage distribution chain, including agriculture, animal feed, food and beverage manufacturers, food and beverage distributors, and hydroponic farms and agricultural businesses in general

## Executive Order 2020-033 Extends Mandatory “Shelter-In-Place” and Updates Exemptions

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- Supermarkets and food stores, including businesses with a supermarket or food store section. Supermarkets may be opened to the public Monday through Saturday from 5:00 a.m. to 8:00 p.m. However, supermarket delivery services may continue operating until 10:00 p.m. Supermarkets and food stores shall be closed to the public on Sundays but may remain open in order to clean, disinfect or restock goods and merchandise.
- **Health**
  - Includes businesses that produce, sell or provide services related to medications, medical tools or equipment, health care services, and their distribution chain, including:
    - biotechnology and agricultural biotechnology facilities
    - blood banks
    - clinical labs
    - companies or insurance agencies that provide medical insurance plans
    - dental offices
    - emergency rooms
    - health centers
    - hospital supplies manufacturers
    - hospitals
    - medical and doctor’s offices
    - medical cannabis cultivation and processing facilities
    - medical devices (manufacturing and sale)
    - medical service clinics
    - medicinal cannabis dispensaries
    - pharmaceuticals
    - pharmacies
    - senior care centers
    - veterinary clinics (but only by appointment)
  - Pharmacies may remain open on Sundays but only to process prescriptions and sell medications and personal hygiene products.

## Executive Order 2020-033 Extends Mandatory “Shelter-In-Place” and Updates Exemptions

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### ■ **Gas stations and their distribution chain**

- Includes the processing, sale and distribution of fuel
- Fuel refineries – gasoline, diesel, jet fuel, AV-Gas, propane gas, butane gas, natural gas, liquid gas, kerosene, among others
- Fuel blending – intermediate fuels, blended
- Wholesale production, distribution and sale (e.g., wholesalers selling to retail gas stations); and
- Gas stations – gas stations may operate normally Monday through Saturday from 5:00 a.m. to 9:00 p.m. and may remain open on Sundays but only for the sale of fuel and medications.

### ■ **Financial Institutions**

- Banks and saving coops that provide deposit, withdrawing or payment services
- Pawn shops – only to provide pawn services and debt payments (sale of goods or merchandise is not permitted)

### ■ **Organizations or groups that provide services that address the basic needs of vulnerable persons**

- Homeless shelters, food banks, victim shelters, shelters, and temporary residences

### ■ **Auto Repair and Part Shops**

- Auto repair and parts businesses, including auto technicians, tire services, and auto parts distribution, may operate on Wednesdays and Thursdays from 9:00 a.m. to 5:00 p.m. upon prior phone or email appointment. These businesses must adopt measures to prevent infections and take steps to ensure that only one customer is being attended at a time without being open to the general public.

### ■ **Hardware Stores**

- Hardware stores may provide emergency services on Fridays and Saturdays from 9:00 a.m. to 5:00 p.m. upon prior phone or email appointment. These businesses must adopt measures to prevent infections and take steps to ensure that only one customer is being attended at a time without being open to the general public.

## Executive Order 2020-033 Extends Mandatory “Shelter-In-Place” and Updates Exemptions

- As an exception, from Monday to Thursday, hardware stores may handle emergency phone or email orders made by government entities or exempted businesses or services.
- **Textile**
  - Textile businesses that manufacture uniforms, footwear, components, or equipment for the Department of Defense or personal protective equipment (e.g., face masks, head covers, health gowns, gloves and other protective equipment used as healthcare protection) may remain open as long as they comply with the protocols and regulations set forth by the Puerto Rico Occupational Safety and Health Administration (“PROSHA”) to protect employees from infection of COVID-19. PROSHA issued a notice on March 31, 2020 on this regard.

EO-2020-033 also advises exempted businesses to comply with any Price Control Measures issued by the Puerto Rico Department of Consumer Affairs (“DACO” for its Spanish acronym) throughout this period.

### **Medical and Dental Offices**

- All elective medical procedures must be suspended. Medical practitioners should consider closing their offices or attend patients only in cases of emergency and upon prior appointment. Gathering of persons will not be permitted.
- Dental offices must remain closed but may offer emergency dental procedures by providing patients with a phone number through which they may call in order to seek such services.
- Specialized treatment centers, such as dialysis or cancer treatment centers, may continue offering their services.

### **Exempted Services**

The following services may be provided during the lockdown, if the services are rendered to attend to an emergency request made by phone or email, without opening a store to the public and after adopting all necessary measures to prevent the spread of COVID-19:

- Plumbers; electricians; household appliance technician; extermination technicians; elevator technicians; pool technicians; gardening services;

## Executive Order 2020-033 Extends Mandatory “Shelter-In-Place” and Updates Exemptions

security gate repairmen; and residential, commercial, industrial or public security and health services. The individuals providing such services must wear face masks and gloves. Gated communities must ensure that also comply with this order.

- Roadside assistance and locksmiths
- Parcel delivery systems provided they follow health, safety or hygiene directives
- Funeral services – transfer of remains, embalment, cremation and interment, but no public funerary services
- Critical Telecommunication Services – work related to the installation, network repair, maintenance, and rehabilitation of such facilities
- Telecommunication services to repair, deliver, or replace equipment for landline, cellphone, internet, cable or antenna TV communication services. In accordance with guidance to be issued by the Puerto Rico Telecommunication Bureau, service providers may provide services and replacements through regional strategic centers. All services and replacements must be previously scheduled and be offered only to current customers. Only telecommunication service providers registered with the Puerto Rico Telecommunication Bureau may provide such services.
- Waste management services (private or public); recycling services; maintenance and cleaning services
- Services related to any federal agency, including the Department of Defense
- Exporting of non-essential goods and merchandise, provided it is part of current inventory

### **Safety Measures to be followed by the Public**

Section 8 of EO 2020-033 orders all individuals to comply with the following safety measures when visiting any of the exempted businesses:

- Use face masks or similar articles of clothing (e.g., scarfs) that cover the area around the mouth and nose
- Maintain at least 6 feet apart from any other person
- Only one member of a household will be allowed to enter an establishment at a time (except when assisting others with a health or physical disability)

## Executive Order 2020-033 Extends Mandatory “Shelter-In-Place” and Updates Exemptions

In order to protect the health and safety of their employees and customers, private businesses must require their customers to comply with the measures above. To this end, private businesses must:

- Refuse entry to any person who does not wear a face mask or other similar mouth and nose cover
- Provide stations or mechanisms in the business to allow persons to disinfect their hands while remaining in the premises; and
- Ensure that customers are keeping at least 6 feet apart from each other inside and outside of their premises

EO 2020-033 recommends supermarkets and pharmacies to adopt special hours for senior customers who are older than 65 years of age. Also, if possible, businesses that remain open should offer preferential service to those persons who work in hospitals, clinical labs or public safety.

### **Excluded Persons**

The following persons are exempted from the “Stay-in-Shelter” order established under EO 2020-033:

- Individuals who provide support, care, food or transportation to seniors, minors, dependents, persons with disabilities, or especially vulnerable persons
- Federal or State public and private safety employees
- Healthcare professionals, including mental health professionals, and hospital, pharmacy, pharmaceutical, bio-science or health center employees
- Wholesale food distribution and manufacturing employees, including agricultural activity
- Critical utility and infrastructure employees
- Exempted service employees
- Call center staff
- Port and airport staff
- Members of the Press and media
- Citizens attending emergency or health situations

## Executive Order 2020-033 Extends Mandatory “Shelter-In-Place” and Updates Exemptions

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- Critical Executive, Legislative and Judicial employees
- Municipal police
- Members of the Vigilance Corps at the Puerto Rico Department of Natural Resources and the Environment
- Internal revenue agents at the Puerto Rico Department of the Treasury
- Legal representatives of citizens accused of crimes with a court appointment; bail reduction and habeas corpus
- Individuals diagnosed with autism are authorized to take therapeutic excursions near their homes while accompanied by one person

### **Payroll and Office Exceptions**

Employers are authorized to send up to five (5) employees to their offices in order to process payroll payments due on April 2020. **This exemption will only apply on April 14, 2020, from 5:00 a.m. to 2:00 p.m.** Employers using this exemption to perform services other than to process payroll payments will be fined in accordance with the provisions of EO 2020-033.

Likewise, on April 16, 2020, from 5:00 a.m. to 2:00 p.m., employers may send certain employees to their offices in order to retrieve materials and equipment needed to continue providing services remotely.

### **Road Tolls**

Tolls will be collected on roads belonging to the Government of Puerto Rico. However, no person shall be fined for crossing road tolls with an underfunded Autoexpreso account. The Puerto Rico Department of Transportation and Public Works and/or the Puerto Rico Highway Authority will issue guidance on this regard.

### **Construction Services**

Construction services may be carried out during the lockdown if they consist of maintenance or repairs to hospitals, potable water, electric power and communication. In any case, safety measures must be adopted to protect the construction worker’s health.



## Executive Order 2020-033 Extends Mandatory “Shelter-In-Place” and Updates Exemptions

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### **Recreational Maritime Traffic**

EO 2020-033 orders the Puerto Rico Department of Natural and Environmental Resources to close every marina in Puerto Rico.

### **Use of Vehicles**

Beginning on April 13, 2020, the restrictions imposed on the use of motor vehicles will be lifted. Therefore, citizens may use their vehicles to acquire exempted goods and services regardless of their vehicle’s license plate number.

### **Penalties for Failing to Comply with EO 2020-033**

Any person who fails to comply with the provisions of EO 2020-033 may face up to six months of incarceration and/or a fine of up to \$5,000.00.

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