

Insights: Alerts

Preparation for Reopening: Guidance for the Real Estate Professional

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The COVID-19 pandemic has resulted in shuttered retail spaces and virtually empty office buildings as most employees worked remotely for a substantial period of time. In addition, a slew of new safety regulations are being imposed to slow the pandemic and combat a resurgence of the disease. As landlords, property managers and tenants prepare to reopen buildings and welcome their employees back to the workplace, they face issues and decisions in balancing the safety, health and well-being of occupants and their legal obligations.

The most important legal considerations are to ensure compliance with all laws and regulations as they continue to evolve and that the division of responsibilities in applicable leases and other contracts are followed. For example, leases often split cleaning and maintenance obligations between the landlord and tenant. Each party should ensure that it performs its contractual obligations and cooperates with the other where services needed to be integrated or if a question exists as to who bears responsibility for a particular issue.

While a myriad of issues will come up in specific situations, below is a list of some of the common issues to consider to help ensure your building or premises is ready to reopen. We have divided these issues into five categories: (i) preparation of physical space; (ii) preparation of occupants; (iii) circulation plans for occupancy; (iv) procedures for social distancing; and (v) cleaning. It is important to note that these lists have been collected from various sources, it is not a definitive or exhaustive list, and local laws and regulations and practices will control.

1. **Preparing the Building and Tenant Spaces for Re-opening.** Prior to allowing people to re-enter a building that has been unoccupied for an extended period of time, the building and all critical components should be inspected for safety and performance purposes. Real estate professionals should review any cleaning plans and perform any necessary inspections, including HVAC, fire/life safety systems and any other mechanical systems to confirm they are safe for full occupancy once again. Below is a list of additional matters that may be appropriate to examine when preparing a building that may have been unattended longer than usual:

- Replace all air filters after flushing the building.
- Procure the necessary equipment and complete any reconfiguration of the facility needed to ensure

a safe work environment.

- Review COVID-19 guidelines provided by the CDC (<https://www.cdc.gov/coronavirus/2019-ncov/>), OSHA (<https://www.osha.gov/Publications/OSHA3990.pdf>) and your state and local guidelines to ensure you are following necessary precautions and health and safety measures for re-opening buildings and workspaces. Continue to monitor regularly and update guidelines when necessary based on any revised COVID-19 guidance.
- Determine whether any federal agencies (e.g., Food and Drug Administration ([FDA](#)) Guidance (testing and treatments), Department of Labor ([DOL](#)), Internal Revenue Service ([IRS](#))) have issued guidance that should be implemented.
- Create a management team to monitor COVID-19 developments and ensure property health and safety measures are in place and being followed.
- Provide Personal Protection Equipment (PPE) and training to all personnel responsible for reopening and cleaning the building.
- Ensure sufficient supply of cleaning materials and products for ongoing cleaning requirements and use are obtained from approved lists from governing authorities.
- Review and prepare plans regarding changes to cleaning scope or any additional services necessary for ongoing health and safety measures for the building and workspaces.
- All building owners and employers should provide written communication to the occupants and employees of any new guidelines and rules and regulations prior to re-opening.
- Ensure all inspections, remediation, repairs and communications are complete before the building and tenant workspaces are reopened.

2. **Preparing Building Occupants and Employees.** In addition to preparing the physical structure for re-entry, employers should consider key policies for deciding when and how employees should return to work. The following is a list of matters an employer may consider:

- Provide transparent and thorough communication regarding new health and safety measures that are being implemented (e.g., social distancing, building circulation, entry and exit, use of common areas).
- Where appropriate, encourage teleworking, especially for “high risk” individuals, and require any person experiencing any COVID-19 symptoms to stay at home. Understand that, while some employees will be eager to return to the workplace, others can benefit from continuing to work remotely, the benefits of which include health priorities, family members' schedules and reduced commute time.
- Be aware of apprehension regarding social distancing and cleanliness, and implement and enforce protocols to provide for such measures and communicate that to occupants and employees.
- All visitors should be approved in advance and accompanied while in the building.

3. **Controlling Access and Circulation throughout the Building.** One of the major changes following the COVID-19 era will be the establishment of protocols to keep workplaces safe and healthy. Property managers, owners and landlords may consider the following measures to ensure a building remains safe:

A. Entry and Exit for the Building

- Reduce the number of access points to the building so that people use monitored, protected entry points, except in the case of emergencies.
- Install hand sanitizing stations at designated entrances to the building.
- Consider screening (e.g., taking the temperature of an employee, testing for the COVID-19 virus or anti-bodies, representations by employees of good health and no known exposure to COVID-19 at home or elsewhere) as people enter the building. Note: Collecting the information is allowed but the information may need to remain private under applicable federal or state privacy laws or to prevent notice-triggering breaches.
- Require all visitors to sign a release or other protections waiving liability, prior to granting access to your facility or providing services.
- Install signage regarding entrance and exit procedures and other protocols for movement throughout the building.
- Disable all touch screens or implement touchless registration via mobile phone.

B. Lobbies and Common Areas

- Install floor markings and Plexiglas or other screening devices to divide people for safe social distancing in areas of congregation.
- Clearly communicate building protocols with signage and floor markings indicating directional flow throughout the building and safe social distances.
- Provide PPE and hand sanitizing stations in lobby, elevator lobby and other common areas (including common area bathrooms) as appropriate.
- Limit the number of occupants in a bathroom at any one time with clear signage providing direction.
- Temporarily close fitness facilities.
- Limit the number of occupants in elevators at any one time with clear signage providing direction.
- Regularly clean and sanitize elevators, elevator lobbies and stairwells, including high touch points, and update cleaning protocols as necessary.
- As an alternate offer access by stairwells to building floors with clear direction regarding traffic flow in stairwells.

C. Shipping and Receiving Locations

- Create a schedule and plan for shipping and receiving to limit contact with occupants.

- Require persons handling and delivering parcels to wear PPE and insure they know how to properly use and dispose of the PPE.
- Sanitize the exterior of any packages and parcels.

4. **Creating a Plan for Implementing Social Distancing Procedures.** “Social distancing” is now a part of everyday life for most Americans. Even in places where strict social distancing measures are not mandated, such protocols such as decreasing density in public spaces, actively managing personnel schedules and regulating office traffic patterns should be considered. Below is a list of additional considerations when executing social distancing processes:

- Alternate employees' schedules or stagger arrival and departure times.
- Enable business teams to negotiate their own “in-office” versus remote-work schedules to promote social distancing; ensure such plans are in compliance with your company's protocols and procedures.
- Rearrange office logistics to provide for at least six-feet in distance when socializing, including reducing the capacity of common spaces if necessary.
- Install panels, structures or other screening in higher-density work environments.
- Enforce stringent cleaning protocols for all shared spaces.
- Discourage shared use of small rooms and hoteling.
- Designate the direction of foot traffic in main circulation paths throughout work spaces.
- Limit in-person meetings.

5. **Reducing Touch Points and Increased Cleaning Practices.** Concerns over human contagion can be mitigated by making simple and effective changes, such as providing for touchless ingress/egress devices, promoting a “clean desk” policy and ensuring common areas are always clean. Other steps may include:

- Establish and maintain enhanced cleaning and disinfecting practices throughout work spaces, building common areas, common workspace areas and other areas prior to opening.
- Supply disinfectant supplies near or on each desk or work area, particularly those that are shared.
- Remove shared food and beverage items, and consider restocking with single-serve items.
- Provide hand sanitizer, disinfectant wipes and other such products that will allow personnel to disinfect as necessary.
- Remove high-touch shared tools such as whiteboard markers, remote controls, breakroom supplies, etc.

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