

# Client Alert: Boston's Construction Site Best Practices for COVID-19: A Glimpse of 'Business As Usual' Post COVID-19

By Christopher R. Agostino on April 22, 2020



As the initial shock of COVID-19 has just begun to fade, many in the business world are contemplating the post-coronavirus workplace. What will "business as usual" look like after federal, state, and local agencies lift stay-at-home orders and other social distance mandates?

That question has been answered, at least with respect to construction projects in the city of Boston. On April 17<sup>th</sup>, Boston's Inspectional Services Department ("ISD") issued a directive on "COVID-19 Safety Plans" [found here](#). The directive describes what coronavirus measures will be required for all jobsites once construction in Boston is allowed to proceed. ISD's April 17<sup>th</sup> directive is immediately applicable to all essential projects that have continued to work through this pandemic. Although this mandate specifically applies to construction projects, other business owners are well advised to pay close attention because these safety practices and procedures could become applicable to other businesses as employees return to work in the not-too-distant future.

The directive requires that all jobsites submit a COVID-19 Safety Plan and a **COVID-19 Safety Affidavit** before going back to work. All new permit applications must include these documents prior to the issuance of any building permit. All essential projects that remain underway must submit their plans and affidavits by April 27<sup>th</sup>. Although ISD did not publish a model COVID-19 Safety Plan, it did provide a **"Best Practices Worksheet"** for contractors to reference when they create their own safety plans tailored to meet the needs of their specific jobsite and construction activity. The Best Practices Worksheet requires all contractors to address six factors intended to mitigate the risk of coronavirus on the job as follows:

- 1) pre-jobsite health checks to ensure that symptomatic workers stay home;
- 2) on the job social distance orders to ensure that workers are not crowded;
- 3) jobsite cleaning to ensure clean surfaces and tools, together with worker hygiene facilities to ensure adequate wash stations, bathrooms, and safe trash disposal;
- 4) provision of adequate and sufficient personal protective equipment for every worker;
- 5) signage and communications to ensure that safety measures are taught and followed; and
- 6) procedures in case there is COVID-19 exposure on the job site.

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Boston's coronavirus Best Practices Worksheet incorporates applicable CDC and OSHA guidance, as well as Massachusetts' COVID-19 Guidelines and Procedures for All Construction Sites; however, its guidance goes further with additional detail intended to ensure that every contractor engages in a thoughtful review of how to prevent the spread of coronavirus based on their specific jobsite and the nature of their work. Every contractor is required to submit the COVID-19 Safety Affidavit, swearing under penalties of perjury that a COVID-19 Safety Plan has been developed and will be implemented to ensure that COVID-19 obligations are taken seriously. Non-compliance may result in suspension or termination of work in progress, and may also give rise to potential liability to the extent any worker contracts coronavirus as the result of a jobsite outbreak that may be linked to failure to maintain a safety plan. It is critical for contractors to continue to consult with their insurance risk advisors and legal counsel to ensure appropriate coronavirus risk management as workers begin to return to jobsites.

The practical import of this guidance is not limited to construction companies. Non-construction businesses such as restaurants, retail shops, warehouses, and other workplaces can use **Boston's COVID-19 Construction Site Best Practices Worksheet** as a template when they consider their own "back to work" coronavirus safety plan. Communication protocols, sanitation measures, and transmission mitigation are all important features that must be considered and implemented in order to minimize recurrence of the virus once businesses reopen.

RIW's **Construction Law Group** can assist contractors with creating a written plan for submission to ISD in response to the April 17<sup>th</sup> directive. The firm can also advise businesses in other industries on best practices to ensure a safe and smooth transition back to on-site operations in a post-coronavirus world.

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