

Arizona Ends Stay at Home Order, Provides Additional Guidance to Reopening Businesses

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Arizona Governor Doug Ducey has issued [Executive Order \(EO\) 2020-36](#), “Stay Healthy, Return Smarter, Return Stronger,” and announced his Stay at Home Order will end on May 15 and be replaced by new guidance for the next stage of economic recovery. EO 2020-36 takes effect on May 16, 2020.

The new guidance aligns with criteria issued by the Centers for Disease Control and Prevention (CDC) and aims to mitigate the risk of COVID-19 resurgence, protect vulnerable populations, and guide the reopening of businesses with enhanced physical distancing and safety measures in place.

EO 2020-36 requires all Arizona employers to develop, establish, and implement policies based on guidance from the CDC, Department of Labor, Occupational Safety and Health Administration (OSHA), and the Arizona Department of Health Services (ADHS) to limit and mitigate the spread of COVID-19. Policies should address the following:

1. Promoting healthy hygiene practices;
2. Intensifying cleaning, disinfection, and ventilation practices;
3. Monitoring for sickness;
4. Ensuring physical distancing;
5. Providing necessary protective equipment;
6. Allowing for and encouraging teleworking where feasible;
7. Providing plans, where possible, to return to work in phases; and
8. Limiting the congregation of groups of no more than 10 persons when feasible and in relation to the size of the location.

Additionally, major league sports can resume limited reopening in Arizona, without fans, beginning May 16.

EO 2020-36 is the latest in the phased reopening of business in Arizona. Others include EO 2020-33, which allowed retailers to resume operation in a limited capacity on April 29, 2020, while still directing people to stay home to the extent possible. EO 2020-34 allowed retailers, cosmetologists, and barbers to open for customers on May 8, 2020, and restaurants to resume dine-in services on May 11, 2020, subject to guidance issued by the CDC and the ADHS. The new EO replaces and rescinds EOs 2020-18 (the initial Stay at Home Order), 2020-24 (requirements for individuals traveling to Arizona), and 2020-33 (which amended the Stay at Home Order); however, all other EOs issued and still in effect since the March 11, 2020, Declaration of Public Health Emergency remain in place, subject to guidance provided by ADHS on how to safely reopen or operate while mitigating the spread of COVID-19.

Arizona’s “Stay Healthy, Return Smarter, Return Stronger” policy promotes physical distancing, while encouraging social connectedness, and allows businesses to gradually and safely open in compliance with federal guidelines. Under this policy, all vulnerable individuals, including the elderly and individuals with underlying health conditions, are

advised to continue limiting their time away from their place of residence or property. Additionally, all individuals are advised to maximize physical distance from others in public areas. EO 2020-36 states that places and social settings where appropriate physical distancing is not practical should be avoided, unless precautionary measures are observed and CDC guidelines are followed.

Law enforcement and regulatory agencies that have enforcement authority are directed to focus first on educating and working to promote best practices to accomplish the goal of mitigating the spread of COVID-19. Individuals must be notified of the provisions of EO 2020-36 and given an opportunity to comply prior to any enforcement action being taken.

New Arizona Department of Health Services Guidance

The ADHS released additional guidance for businesses and customers as more industries resume partial operations. The guidance allows pools, gyms, and spas to reopen May 13, with physical distancing and enhanced sanitation measures. These measures include:

- Maintain physical distancing, to the extent possible.
- Provide and require employees to wear masks when possible.
- Operate with reduced occupancy and capacity based on the size of the business location, with special attention to limiting areas where customers and employees can congregate.
- Wipe any pens, counters, or hard surfaces between use or customer.
- Arrange waiting areas, service areas, and break rooms to provide appropriate physical distancing and sanitize areas regularly between use.
- Do not have clients share items that are difficult to clean, sanitize, or disinfect.
- Implement comprehensive sanitation protocols (for example, chairs, tables, and any other common surfaces or shared equipment).
- Implement symptom screening for employees before the start of their shift.
- Provide access to soap and water for handwashing or an alcohol-based hand sanitizer at stations around the facility for use by employees and clients. Require employees to wash hands immediately before and after providing client service.
- Train all employees in the above safety actions.

Gyms, pools, and spas also should consider requiring guests to provide their own towels. If this is not possible and towels must be provided:

- Launder items according to the manufacturer's instructions. Use the warmest appropriate water setting and dry items completely.
- Wear disposable gloves when handling used towels from guests.
- Do not shake used towels.
- Clean and disinfect bins that hold used towels according to guidance for disinfecting surfaces.
- After handling used towels, remove gloves and wash hands right away.

Spas

The ADHS recommends spas, massage therapists, and other personal services take the following additional steps when reopening:

- For treatments that require touching client's face, provide and require employees to wear gloves when possible.

- For treatments or appointments that do not require touching the client's face, clients should be encouraged to wear masks for their protection.
- Discourage sharing of items such as magazines, equipment, menus, and supplies with those they do not live with.
- Clean and disinfect shared furniture, equipment, towels, and gowns or robes between each use.
- Consider posting signs advising customers and employees of expectations and guidance.
- Consider not charging late or cancellation fees if someone cannot make their appointment due to illness.
- Consider operating by appointment-only to manage occupancy levels.
- Consider offering cloth face coverings to employees and visitors to wear.
- Consider single-use items, where possible.
- Consider implementing symptom screening for patrons scheduled to have services that require the employee to touch the face.

Gyms

The ADHS recommends gyms and fitness centers take the following additional steps when reopening:

- Sanitize gym equipment before and after every use.
- Provide disposable disinfectant wipes, cleaner, or spray so patrons can wipe down frequently touched surfaces on gym equipment.
- Arrange cardio equipment so that appropriate physical distancing can be adhered to.
- Ensure adequate equipment for patrons to minimize sharing to the extent possible, or limiting use of equipment by one user at a time and cleaning and disinfecting between use.
- Implement enhanced sanitation of locker room areas.
- Require employees and patrons to clean out lockers nightly to facilitate overnight deep cleaning processes.
- Consider contactless check-ins.
- Consider requiring online bookings for fitness classes and limiting the size of the class to allow for appropriate physical distancing.
- Consider limiting gym hours to allow for proper sanitation.

Pools

According to the CDC, there is no evidence that the virus that causes COVID-19 can be spread to people through water in pools, hot tubs, spas, or water play areas. Moreover, proper operation and maintenance (including disinfection with chlorine and bromine) of pool facilities should make the virus inactivate in the water. However, community pools also should consider taking steps to provide additional space between pool chairs at community pools to allow appropriate physical distancing and disinfect common surfaces (including pool lifts) in between each use.

Regarding Aquatic Summer Programs and Swim Schools/Lessons, ADHS recommends avoiding group events, gatherings, or classes both in and out of the water if social distancing of at least six feet between people who do not live together cannot be maintained. However, exceptions to the physical distancing guidance include rescuing a distressed swimmer, providing first aid, performing cardiopulmonary resuscitation, with or without an automated

external defibrillator, and evacuating an aquatic venue or entire facility due to an emergency.

If planned events or classes must be conducted, the ADHS recommends community pools take the following additional precautions:

- Limit the number of participants in the class or event to prevent transmission.
- Implement symptom screening of staff *and* participants, especially children who might not be capable of staying at least six feet apart from people they do not live with.
- Stagger drop-off and pick-up times, as much as possible, to maintain distance of at least six feet between people who do not live together.
- Discourage sharing of equipment, such as kickboards, equipment, toys, and supplies, with those they do not live with.
- Discourage people from sharing items that are difficult to clean, sanitize, or disinfect or that are meant to come in contact with the face (for example, goggles, nose clips, and snorkels).
- Ask parents to consider if their children are capable of staying at least six feet apart from people they do not live with before taking them to a public aquatic venue.
- Limit any nonessential visitors, volunteers, and activities involving external groups or organizations.
- Limit traveling for events (*i.e.*, swim meets) to prevent mixing of individuals from different geographical locations.

Community pool operators also should consider the following:

- Posting signs advising customers and employees of expectations and guidance.
- Posting signs at pool entrances that if you feel sick, you should go home.
- Providing and requiring non-medical grade face coverings to employees to wear (those who are swimming should not wear masks).
- Not providing pool floats or toys, but if they are provided, disinfect them in between each use.

Jackson Lewis has a [dedicated team](#) tracking and responding to the developing issues facing employers as a result of COVID-19. Please contact a team member or the Jackson Lewis attorney with whom you regularly work if you have questions or need assistance.

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