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ATTORNEY GENERAL'S GUIDANCE ON LOCAL *SHELTER IN PLACE* ORDERS

If a municipality is considering issuing a "Local Shelter in Place" Order as a way to further restrict movement within the community in response to Covid-19, the Attorney General's Office (AGO) would like to provide the following guidance. This guidance is not a formal opinion. Opinions of the Attorney General are formal determinations rendered in specific circumstances not present here. See M.G.L. c. 12, §§ 3, 6, and 9.

Shelter in Place Orders are generally not implemented by bylaw, but rather an exercise of local police power. As part of any Order, we suggest you consider which exemptions to include from the shelter restriction. Attached, please find an example from the County of Alameda, California that includes exemptions you may want to consider. The relevant portion is included below from Section 10(b) on page 3 of the attached final Order:

"For purposes of this Order, individuals may leave their residence to work for or obtain services at any "Healthcare Operations" including hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers, or any related and/or ancillary healthcare services. "Healthcare Operations" also includes veterinary care and all healthcare services provided to animals. This exemption shall be construed broadly to avoid any impacts to the delivery of healthcare, broadly defined. "Healthcare Operations" does not include fitness and exercise gyms and similar facilities."

You may also want to consider additional exemptions for manufacturing operators and employees, which may be needed to assist with generating critically needed items, as well as any other function you may deem necessary.

If you have any questions, please do not hesitate to contact Margaret Hurley, Director of our Municipal Law Unit at (508) 792-7600 ext. 4402 or at margaret.hurley@mass.gov.