

**Q: Can remodeling businesses stay open under the Governor's Safer At Home Order?**

**A:** It is the WBA's understanding that remodeling may continue with limitations. The Order does not use the word "remodeling" in it. Instead, the Governor declared that "housing construction" to be "Essential Infrastructure". The term "housing construction" is not defined so we look to its common understanding. A common understanding of "housing construction" certainly would include both home improvements and remodeling. Moreover, the Order states that "'Essential Infrastructure' shall be construed broadly to avoid any impacts to essential infrastructure, broadly defined." Based on this phrase, we believe that "housing construction" should be broadly defined to avoid impacts to housing construction, which means remodeling and home improvement would be part of housing construction.

A concern has been raised about an ambiguous phrase in the Order. The full phrase states "housing construction, *except that optional or aesthetic construction should be avoided*". It is very important to note that whenever the Order prohibits conduct it expressly and clearly states so. It will say individuals "are ordered to stay at home" or gatherings "are prohibited" or all entities "shall meet Social Distancing Requirements". In contrast, "should be avoided" is ambiguous. Literally, it does not say that optional or aesthetic construction is prohibited.

Accordingly, we do not see the phrase "*except that optional or aesthetic construction should be avoided*" as prohibiting remodeling or home improvement. If the Order intended to prohibit it remodeling or home improvement, the Order would have specifically said so. Instead, our best guess is that this portion of the Order is asking that housing construction businesses use common sense to avoid optional or aesthetic construction.

Since housing construction is "Essential Infrastructure", it is also considered an Essential Business and Operation. As an Essential Business, all housing construction "shall" meet Social Distancing Requirements between all individuals on the premises to the extent possible. Essential Businesses and Operations "shall", to the greatest extent possible, use technology to avoid meeting in person, including virtual meetings, teleconference, and remote work (i.e., work from home). Essential Businesses and Operations shall, to the greatest extent possible, ensure that both employees and members of the public are maintaining six-foot social distancing, including but not limited to when any customers are standing in line.

The WBA is constantly monitoring updates and clarifications from the state of Wisconsin on all its orders, and will update its members if it obtains an interpretation or clarification from the state of Wisconsin.

**Q: Is new construction allowed under the Order.**

**A.** We are in uncharted waters so we constantly look for clarification. As set forth in previous posts, the order clearly includes housing construction as Essential Infrastructure. Further the Order makes clear that "Essential Infrastructure" shall be construed broadly to avoid any impacts to essential infrastructure. The only limitation we see in the order is where it states: "housing construction, *except that optional or aesthetic construction should be avoided*" There is no explanation as to what is "optional or aesthetic" housing or what the Governor meant by "should be avoided".

Since the order specifically says that Essential Businesses and Operations are encouraged to remain open, and that Essential Infrastructure should be read broadly – it is our position that the home construction industry is to stay open. To stay open would mean there needs to be new

construction. We read the optional or aesthetic construction narrowly to mean optional and aesthetic construction to be something small on an existing house that can easily be done later.

If we read the term “optional or aesthetic construction” broadly to say it prohibits new construction, then housing construction would be essentially shut down.

It is our position that since the intent of the Governor’s Order was to keep “housing construction” as an Essential Business – saying no new construction would defy that intent. If the governor intended to have no new home construction, he would have just written it that way.

Based on the above interpretation, it is the WBA’s position that new construction can go forward.

**Q. May residential roofers continue to operate under the Governor’s Safer At Home Order?**

**A.** Yes. In most cases residential roofers can continue to operate. There are two areas in the Order that likely apply to residential roofers.

First, residential roofing on new construction or replacing an existing roof is likely an “Essential Infrastructure”. Governor declared that “housing construction” is part of the “Essential Infrastructure”. The term “housing construction” is not defined so we look to its common understanding. A common understanding of “housing construction” certainly would include installing a roof. Moreover, the Order states that “‘Essential Infrastructure’ shall be construed broadly to avoid any impacts to essential infrastructure, broadly defined.” The Governor’s order does say that “optional or aesthetic construction should be avoided.” As stated in a previous post, this phrase is ambiguous. However, we do not believe that the replacement of a roof that is damaged or nearing the end of its life would be the type of optional or aesthetic construction that should be avoided. Common sense should be used to avoid doing work that is optional or aesthetic.

Second, the Order specifically includes “critical trades” as Essential Businesses that may continue to operate. “Critical trades” include but are not limited to plumbers, electricians, carpenters, laborers, sheet metal, iron workers, masonry, pipe trades, fabricators, finishers, exterminators, pesticide application, cleaning and janitorial staff for commercial and governmental properties, security staff, operating engineers, HVAC, painting, moving and relocation services, forestry and arborists, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, Essential Activities, Essential Governmental Functions, and Essential Businesses and Operations. It seems clear that roofing installers would be included under the critical trades especially since maintaining, repairing, and replacing a roof is necessary to maintaining the essential operation of a residence.

For the replacement of an existing roof, we do not believe it needs to be failing (i.e., leaking, etc.) to be replaced. The essential operation of a residence does not require that there be damage to the residence before the work is essential. If the roof has reached the end of its lifespan, it is essential to the operation of the residence that it be replaced before there is damage to the home.

Since residential roofing is part of housing construction and part of the critical trades, it can continue to operate. This would include being able to have estimators measure roofs, etc., to provide bids to the homeowners. However, you cannot engage in door-to-door solicitation, regardless of its purpose.

Residential roofers as Essential Businesses and Operations under the Order shall, to the greatest extent possible, use technology to avoid meeting in person including virtual meetings, teleconference, and remote work (i.e., work from home). To the greatest extent feasible, Essential Businesses and Operations shall comply with Social Distancing Requirements as defined in the Order; in doing so, Essential Businesses and Operations shall, to the greatest extent possible, ensure that both employees and members of the public are maintaining six-foot social distancing, including but not limited to when any customers are standing in line.

**Q: May construction material supply stores such as lumber, flooring, paint, lighting, electrical, and plumbing distributors and retailers continue to stay open and operate under the Governor's Safer At Home Order?**

**A:** Yes. The Governor's Order specifically lists "hardware and supplies stores" as Essential Businesses and Operations. The provision applies to "hardware stores and businesses that sell electrical, plumbing, heating, and construction material." The term "construction material" provides a broad "catch-all" for stores that supply the construction industry. Accordingly, that provide building materials, including flooring, wall coverings, lighting, and like material used in commercial and housing, are allowed to maintain normal operation.

Hardware and supplies stores as Essential Businesses and Operations under the Order shall, to the greatest extent possible, use technology to avoid meeting in person including virtual meetings, teleconference, and remote work (i.e., work from home). To the greatest extent feasible, Essential Businesses and Operations shall comply with Social Distancing Requirements as defined in the Order; in doing so, Essential Businesses and Operations shall, to the greatest extent possible, ensure that both employees and members of the public are maintaining six-foot social distancing, including but not limited to when any customers are standing in line.

**Q. Will I be required to carry documentation to leave my home?**

**A.** No. Individuals do not need special permission to leave their homes, but they must comply with this order as to when it is permissible to leave home. Similarly, if a business is an essential business or operation as outlined in this order, it does not need documentation or certification to continue work that is done in compliance with this order

When taking any action permitted under the Order, all individuals, organizations, government bodies, and any other permitted group of individuals shall, to the extent possible, follow DHS guidelines located here: [www.dhs.wisconsin.gov/covid-19/index.htm](http://www.dhs.wisconsin.gov/covid-19/index.htm)

All Essential Businesses and Operations shall comply with DHS guidelines for businesses located here: <https://www.dhs.wisconsin.gov/covid-19/employers.htm>

An FAQ from the Evers Administration is [available here](#).