

**STOBBS, SINCLAIR & LIVINGSTONE, LTD.**

Attorneys and Counselors at Law

**JAMES S. SINCLAIR**  
**DAVID K. LIVINGSTONE**

500 Bond Street  
Alton, IL 62002-6122  
618-465-6978  
618-465-7022 (Facsimile)  
jsinclair@sslalaw.com  
dlivingstone@sslalaw.com

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To: Fire Protection District and Local Government Clients

Re: COVID-19 Matters Update

**New IDPH Rules Regarding Face Coverings and Gathering Limitations**

Governor Pritzker's administration filed new IDPH COVID-19 emergency rules that mandate the wearing of masks and limit the size of gatherings last week. On August 11, 2020, the Joint Committee on Administrative Rules (JCAR) voted to uphold the new rules proposed by the Governor and IDPH. In summary, the rules state:

1. Any individual who is over age 2 and able to medically tolerate a face covering (mask or cloth face covering) must wear a face covering when in a **public place and unable to maintain at least a six-foot social distance**. The requirement applies regardless of whether it is in indoor or outdoor space. Since a fire department is a facility open to the public, it must follow these guidelines.
2. Any business, service, facility, or organization open to the public or open to employees must require their employees, customers, and other individuals on the premises (again, who are over age 2 and able to medically tolerate a face covering) to wear a face covering when on the premises and unable to maintain a six-foot social distance.
  - a. Business, services, facilities, or organizations that take "reasonable efforts" to require patrons and employees to wear a face covering will be in compliance with the rule.
  - b. "Reasonable efforts" is defined for "retail businesses", but the example can similarly apply to fire protection districts. "Reasonable efforts" may include (a) posting signage requiring face coverings to be worn on the premises, (b) providing face coverings to employees and members of the public; (c) giving verbal warnings; and (d) requesting that people leave if they refuse to wear a face covering.
  - c. There is no requirement that a person who claims medical intolerance to a face covering to provide proof of such intolerance. There is, similarly, no requirement that a business, service, facility, or organization make that inquiry, and there is no express authority to do the same.
  - d. There are more specific rules for restaurants and schools, but they are not covered here.
3. Gatherings of more than 50 people, or 50% or more of a building's maximum occupancy if 50% of the maximum capacity is less than 50 people, are prohibited unless exempted by law or Executive Order.

4. Enforcement of the Rule for businesses, services, facilities, or organizations open to the public will be in the following manner:
  - a. First, a written notice of non-compliance will be given. A reasonable period of time to come into compliance will be given.
  - b. Second, if voluntary compliance is not achieved after written notice, the enforcing agency may issue a written order directing the business, service, facility, or organization to have all or some of the persons on the premises disperse until voluntary compliance is achieved.
  - c. Third, if there is no compliance with the written order, then the business, service, facility, or organization may be subject to fines.
5. Additionally, if there is a suspected case or carrier of COVID-19 in a business, service, facility or organization, IDPH and local health authorities may enter the facility to investigate the conditions of the facility, to verify the existence of the disease, locate and evaluate contacts of the cases, identify others at risk, and determine necessary control measures.
6. The IDPH or certified local health department may order the closure of a business, service, facility, or organization in the event there is an emergency or outbreak.

Specifically, for Illinois Fire Protection Districts, at this point, it would be wise to follow the new rules as they presently stand. This means ensuring all people at the fire stations are wearing face coverings, and ensuring no gatherings exceed 50 people or 50% or more of the occupancy limit (if 50% of the maximum occupancy is less than 50 people). While the Governor's Executive Orders *did* provide some exemptions for local emergency agencies and units of government from the restrictions set out in the Executive Orders, we have not yet seen an Executive Order that exempts any unit of government from these new IDPH rules. That exemption may come soon.

In particular, for training, and of course depending on the type of training, if the members cannot maintain a six-foot social distance while training, they should utilize face coverings. Even if they can maintain a six-foot social distance, a face covering should be strongly suggested and likely required by the District to ensure the safety of its members. It is important that care be taken to avoid an exposure which could result in a large portion the District's available personnel being quarantined and not available to respond to calls.

### **Open Meetings Act**

Executive Order 2020-48 (COVID-19 Executive Order No. 45) extended the public health emergency through August 22, 2020. As such, Open Meetings Act Section 7(e)'s provisions on remote meetings are still available for use by fire protection districts and other units of local government. While it is expected that this will be again extended, it is set to expire on August 22, 2020. Districts desiring to use remote meeting procedures need to verify that the public health emergency declaration remains in effect after that date (as expected) in the event a

remote meeting is scheduled after that date. If there are any questions regarding the required procedures under Section 7(e), please contact us.

As always, bear in mind that the COVID-19 situation is fluid with the possibility of reversion to an earlier "phase" of restrictions occurring. Accordingly, guidance evolves frequently. We will do our best to keep our clients informed as developments occur. If questions arise, please contact us.