

### Temporary Hospitality Closures During A Pandemic

#### Unique & Challenging Times

During periods of natural disaster, pandemic and other crises, you may consider, or be required to provide use of your property in the following manner:

- The delivery of healthcare and related services including, but not limited to, the following:

- Inpatient care for patients with confirmed virus;
- Non-infected patients removed from hospital to accommodate more critical and/or infected patients;



- Housing of first responders and/or health care workers who may not wish to, or are permitted to, return to their homes in order to minimize exposure and infection to family members and others;
- Quarantine facility for those with symptoms who have tested positive, but do not require inpatient hospitalization

To some, this may appear to be an attractive option to provide a valuable service to the community, retain some form of revenue or maintain a competitive advantage, but it is important to remember that these opportunities are not without risk.

As a result, it is strongly recommended that you consult with legal counsel, your insurance broker or agent, and your brand and franchise agreements prior to memorializing through a contract.

The following tips for consideration are intended to assist with identifying some of the issues that may be involved, as well as potential strategies to protect the property and contents if a government agency will be using your property during periods of pandemic, natural disaster and other crises.

#### Potential Liabilities as an Employer

Deliberate and careful consideration should be given to your responsibilities as an employer should you consider allowing your employees to work at the property while it is being operated by a government agency for healthcare purposes under any of the circumstances above.

Permitting employees to work in a healthcare environment where they are far more likely to be exposed to potential injuries and illnesses increases your requirements under OSHA.

As an employer, your responsibility for training and complying with OSHA and other regulatory standards and management practices can be greater in a healthcare setting than as a hospitality or other real estate employer.



The government agency may request that employees continue to provide front desk, food service, housekeeping, maintenance/ engineering and other services. It is important that these roles are clearly defined and that the government agency or their contractors are responsible for providing all required personal protective equipment (PPE) for any hotel employees working on the property, and instructions to the staff on best practices. Consideration should be given to engaging cleaning product and PPE vendors to provide additional staff training regarding cleaning products and tools; appropriate use of cleaning products and tools; and proper methods for wearing and removing personal protective equipment (PPE).

### **Contractual Considerations**

All agreements with government agencies regarding the use of your property should be, at a minimum, aligned and consistent with sound management controls.

- In the event part of the property is open to guests, the government agency should not be permitted to use that portion of the property. Co-mingling amongst all persons on the property should be avoided.
- Consideration should be given to requiring the government agency to provide blanket (complete and full) indemnification and hold harmless language that is favorable to the property management company, ownership, brand, etc. Language should also be considered that states that the government agency is accepting the property 'as is,' and that they are aware and agree that the property, building and facilities were not constructed or designed for the current and intended use during this emergency.
- Indemnification and hold harmless language should release property/hotel management, owners, etc. from any and all liability resulting from any individuals' exposures such as government employees, families and anyone that may or has come into contact with a person working in the hotel as a result of the government agency's use of the property and facility.
- Very clear and specific language, including the specific steps and timeframe regarding how and when the government agency will return the property and ensure that the property is properly restored, cleaned, sanitized and certified for hotel occupancy should be included in the agreement. Specific clarification and detail should include HVAC system ductwork, filtration, etc., and how those systems will be cleaned, sanitized and restored.

### Pre-Release Inspection

If possible, perform a pre-release inspection to document the condition of the interior and exterior of the property, mechanical systems, fire and life safety systems, smoke, heat, fire, carbon monoxide detection equipment and fire suppression systems. A property opening or closing checklist can be used to guide inspections of the property, contents, equipment and mechanical systems.

If not able to perform inspection prior to turning your property over to a government agency, obtain and use status and condition of equipment from preventative maintenance logs, checklists and inspection records as a baseline.

### Operational Considerations

#### Critical Building Systems

- Determine who will be responsible for checking that the following fire and life safety systems and devices remain in proper working condition and that all inspections, maintenance and testing are conducted in accordance with the authority having jurisdiction and as if the property was fully operational. This may include:
  - Fire alarm control panel;
  - Fire sprinkler riser pressures;
  - Fire pump(s);
  - Fire sprinklers and suppression devices;
  - Fire suppression systems in kitchens;
  - Smoke and heat detection devices;
  - Fire extinguishers – an inventory or list of extinguishers should be utilized to ensure that all fire extinguisher cabinets on the property are inspected and maintained;
  - Fire sprinkler and suppression systems including fire sprinkler risers, fire department connections and connection covers (brass and other metallic covers are high-theft potential items);
  - Carbon monoxide detection systems
  - If your property has an emergency generator, ensure that fuel supply levels are adequate, and that the generator is tested on a regular basis.
- Determine who will be responsible for ensuring that water distribution systems, HVAC, IT systems (Wi-Fi, networks security, etc.) and telephone systems remain in proper working order



### Security

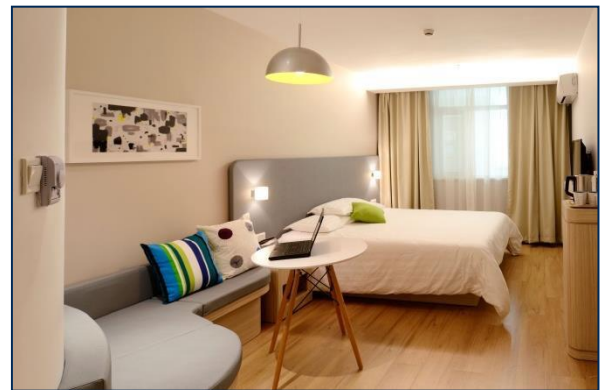
- Many guestroom key encoders are connected to the property management and guestroom reservation system. So it is important to determine and define how access to guest rooms will be provided. This should include consideration for who will be authorized to make and retain guestroom keycards, as well as how they will be retained and returned.
- The government agency should be required to provide security personnel to conduct documented inspections of the exterior and interior of the property to ensure that secured areas remain secured. All security patrols must be documented including names, dates, and times. Any deficiency or incident should be reported and documented immediately.
- If CCTV security cameras are in use, ensure that cameras and camera positions are not tampered with and that monitoring and recording hardware remains functional.
- Government agencies and their contractors should be prohibited from entering or using critical administrative areas including executive offices, accounting, human resources, housekeeping, and engineering shops.

### Food Services & Delivery

If commercial kitchen and food production facilities are present, all food and beverage operations should be performed by the government agency or their contractors.

### Guestrooms & Public Area Furniture, Furnishings, Equipment

Consideration for care, custody, use and return in good condition of guestroom bedding, furniture, furnishings and equipment (FFE) and case goods in guestrooms, public areas, lobbies and meeting spaces; as well as meeting room and banquet equipment such as table, chairs, staging, and podiums, should be discussed and agreed upon in the contract.



### Hotel Vehicles, Tools & Equipment

The use of any hotel-owned vehicles, housekeeping cleaning tools, or other tools or equipment such as hand tools, power tools, ladders, pallet jacks, powered industrial trucks, etc., should be prohibited by any government agency or their contractor.

### Ongoing Housekeeping & Maintenance

The government agency and/or their contractor should be exclusively responsible for ongoing housekeeping, maintenance and sanitation of all areas used by the government agency and their contractors. This may include:

- Guestrooms, corridors, service landings, stairwells
- Public areas including lobby, restrooms
- Interior and exterior walking surfaces.

### Other Operational Considerations

- Management of deliveries including but not limited to medical supplies, tools, equipment, food and beverage products should be performed by the government agency or their contractors
- Laundry facilities, machines and equipment should not be provided for use by the government agency or their contractors. Performance and delivery of linen and laundry services should be performed by the government agency or their contractors
- If present on the property, neither swimming pool, whirlpool, fitness center or other recreational amenity or related facility should be accessible or available for use by the government agency
- If present on the property, at no time should any refrigeration or freezer equipment or units, including, but not limited to, walk-in coolers or other storage facility used for perishable food product, be used for the storage of any blood, body fluid, or other potentially infectious materials or decedents
- The government agency and/or their contractor should be exclusively responsible to ensure the proper and safe disposal of all waste, particularly medical related and all potentially infectious materials



### **Return of Property to Hotel Management or Owners**

When the government agency has ceased operations and is prepared to return the property to the hotel management company or owners, the following items should be considered.

If possible, perform an inspection to document condition of interior and exterior of the property, mechanical systems, fire and life safety systems, smoke, heat, fire, carbon monoxide detection equipment and fire suppression systems. A property opening or closing checklist can be used to guide inspections of the property, contents, equipment and mechanical systems. This should be compared to the pre-release inspection.





If a pre-release inspection was not conducted, obtain and utilize status and condition of equipment from preventative maintenance logs, checklists and inspection records for comparison.

Review the terms regarding restoration, cleaning, sanitizing and return the property to ensure that all terms have been met by the government agency and the property is suitable and certified for hotel occupancy. Specific clarification and detail should include HVAC system ductwork, filtration, etc., and how those systems were cleaned, sanitized and restored.

These are unique and challenging times that require innovative solutions. Considering these guidelines may assist you with providing a valuable service to your community and provide a competitive advantage and source of revenue that otherwise may not be available.

It is important, however, that you carefully consider all risks and exposures and make informed decisions upon consultation with your legal counsel, your insurance broker or agent and brand and franchise agreements prior to entering into any such contracts.

### Sources:

**OSHA**      <https://www.osha.gov/>

**FEMA**      <https://www.fema.gov/>

**NIH**        <https://www.nih.gov/>

**HHS**        <https://www.hhs.gov/>

**NCBI**       <https://www.ncbi.nlm.nih.gov/>

**CDC**        <https://www.cdc.gov/legionella/wmp/hotel-owners-managers.html>

**NFPA**       <https://www.nfpa.org/>

<https://community.nfpa.org/community/nfpa-today/blog/2017/02/06/nfpa-1-requirements-for-seasonal-and-vacant-buildings-firecodefridays-monday-edition>

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