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COVID-19 Advisory



Impact of COVID-19 on Construction Projects

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Extended Bay Area COVID-19 Orders Loosen Restrictions on Construction Projects If Updated Safety Protocols Are Followed

As of 11:59 p.m. on May 3, 2020, new shelter in place orders resulting from the COVID-19 pandemic went into effect, superseding the prior orders issued on March 31, 2020, in six Bay Area counties (Alameda, Contra Costa, Marin, Santa Clara, San Francisco, and San Mateo) and the City of Berkeley. These new orders extend the shelter in place requirements until 11:59 p.m. on May 31, 2020, and provide significant changes to ease prior restrictions on construction projects. Under the new shelter in place orders, projects are no longer required to be designated an “Essential Governmental Function.” Rather, for these Bay Area jurisdictions, all construction can proceed as Essential Business, consistent with the State shelter-in-place order, provided it is performed safely in accordance with the new health protocols attached to the orders. The new health protocols are designated Small Construction Project Protocol (SCP Protocol) and Large Construction Project Protocol (LCP Protocol). All construction job sites are subject to the new health protocols, and the classification of district projects as small or large should be made on a case-by-case basis to ensure the proper protocol is in place.

Based on the definitions in the order, it is anticipated that many Bay Area district projects will be subject to the less onerous SCP Protocol. However, it is possible certain district projects over 20,000 square feet or involving more than 10 dwelling units could be considered subject to the LCP Protocol, which requires more stringent measures including, but not limited to, the assignment of a third-party job safety accountability supervisor to the jobsite and heightened decontamination requirements. To avoid violation of the new order, districts are encouraged to work closely with legal counsel to categorize every project and ensure proper protocols are implemented at jobsites.

As of the time of this publication, we are aware that other counties throughout the state have begun to adopt similar orders relaxing certain shelter in place requirements. However, not all counties are adopting the LCP and SCP Protocols included in the Bay Area County SIP orders. All districts should review the specific language in the order(s) issued in the county or counties where the district is located.

State, county, or city officials may provide additional guidance. For example, the California Department of Industrial Relations, Division of Occupational Safety & Health (CalOSHA) has published Safety and Health Guidelines which can be found here: <https://www.dir.ca.gov/dosh/coronavirus/COVID-19-Infection-Prevention-in-Construction.pdf>.

If you need more information about how to classify your construction projects, please contact an attorney in our Construction practice group. For more information regarding the impact of COVID-19 on your district’s operations, please visit our COVID-19 Resources page at <https://www.dwkesq.com/covid-19-resources-page/>.

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