

CLIENT UPDATE

STAY HOME – WORK SAFE ORDER | WHAT THIS MEANS FOR AUSTIN CONSTRUCTION

By [Whitney Knight](#), Allensworth & Porter
March 24, 2020

Today, Mayor Adler issued a [Stay Home – Work Safe Order](#), effective midnight tonight, directing all City of Austin residents to stay home—except as needed to maintain continuity of operations of essential critical infrastructure sectors, in an effort to protect the health and well-being of its residents. Williamson and Travis Counties will issue similar orders today with the same effective date.

EXEMPTIONS

Importantly, the Order identifies certain essential/critical infrastructure construction projects in Austin that are **exempt** from the Order. It exempts any work necessary to the operations and maintenance of the following sixteen (16) critical infrastructure sectors (administered by the Department of Homeland Security’s National Cybersecurity and Infrastructure Agency):

1. Chemical Sector
2. [Commercial Facilities Sector](#)
3. Communications Sector
4. Critical Manufacturing Sector
5. Dams Sector
6. Defense Industrial Base Sector
7. Emergency Services Sector
8. Energy Sector
9. Financial Services Sector
10. Food and Agriculture Sector
11. Government Facilities Sector
12. Healthcare and Public Health Sector
13. Information Technology Sector
14. Nuclear Reactors, Materials, and Waste Sector
15. Transportation Systems Sector
16. Water and Wastewater Systems Sector

The rationale is that the assets, systems, and networks of these 16 critical infrastructure sectors are considered so vital to the United States that their incapacitation or destruction would have a debilitating effect on security, national economic security, national public health or safety, or any combination thereof. Presidential Policy Directive 21 (PPD-21).

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The “Commercial Facilities Sector” includes eight subsectors that will exempt the typical commercial construction project in and around Austin from the Stay Home – Work Safe Order:

1. Entertainment and Media (e.g., motion picture studios, broadcast media)
2. Gaming (e.g., casinos)
3. Lodging (e.g., hotels, motels, conference centers)
4. Outdoor Events (e.g., theme and amusement parks, fairs, campgrounds, parades)
5. Public Assembly (e.g., arenas, stadiums, aquariums, zoos, museums, convention centers)
6. Real Estate (e.g., office and apartment buildings, condominiums, mixed use facilities, self-storage)
7. Retail (e.g., retail centers and districts, shopping malls)
8. Sports Leagues (e.g., professional sports leagues and federations)

Section 2.p. in Exhibit B of the Stay Home – Work Safe Order further defines how the City interprets Critical Infrastructure as it relates to Construction:

“Construction, including public works construction, and construction of affordable housing or housing for individuals experiencing homelessness, social services construction, and other construction that supports essential uses, including essential businesses, government functions, or critical infrastructure, or otherwise as required in response to this public health emergency.”

While these exceptions allow construction to continue on certain projects, it does not mean that the exempt projects will be free from social distancing requirements and OSHA guidelines outlined in our [March 19, 2020 Community Gathering Client Update](#), or the delays and cost impacts associated with compliance with other COVID-19-related orders. Additionally, because the Stay Home – Work Safe Order is so new, we expect to see additional guidance of these rules, in the form of official interpretations.

We will continue to update you as the circumstances arise. Please reach out with any questions.

ABOUT



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Whitney Knight strategically crafts and negotiates large-scale commercial construction contracts for owners and design professionals to mitigate risk at the beginning of a project and to protect clients against costly disputes down the road. In addition to her contract work, Whitney also handles construction litigation, professional liability issues, and dispute resolution matters for clients across the commercial construction industry.

Allensworth & Porter focuses exclusively on the practice of construction law. For 25 years, we’ve handled complex construction matters from preconstruction to closeout, from the first claim to the last appeal, and all manners of disputes in between for clients in virtually every sector of the commercial construction industry. Our 360-degree view of the industry and singular focus on construction law allows us to provide clients with comprehensive insight, education, and strategies to minimize risk, accomplish business objectives, and resolve disputes. For more information, visit [aaplaw.com](#).