

Bay Area Counties Issue New Orders Permitting Construction to Resume with Conditions

Key Points

- Bay Area counties issued new Shelter Orders on April 29, 2020 allowing all construction to resume.
- The new Shelter Orders include detailed Construction Safety Protocols that construction jobsites must comply with.
- There is one Construction Safety Protocol for “small” construction projects, and a more rigorous Construction Safety Protocol for “large” construction projects. The new Shelter Orders include criteria for determining if a construction project is small or large.

On April 29, 2020, [San Francisco](#), [San Mateo](#), [Santa Clara](#), [Contra Costa](#), [Alameda](#), and [Marin](#) Counties, as well as the [City of Berkeley](#), issued new Shelter Orders permitting all construction to resume at 11:59 P.M. May 3, 2020, but only if numerous hygiene and social distancing requirements are met. Earlier Shelter Orders in these jurisdiction prohibited most construction, with a few exceptions.

Under the new Shelter Orders, which are largely the same across the issuing jurisdictions, construction jobsites must adhere to the applicable Construction Safety Protocol appended to the new Shelter Orders. There is one Construction Safety Protocol for “small” construction projects (“SCP Protocol”), and a more rigorous Construction Safety Protocol for “large” construction projects (“LCP Protocol”). The Shelter Orders define a small construction project as a construction project meeting **any** of the following specifications:

- For residential projects, any single-family, multi-family, senior, student, or other residential construction, renovation, or remodel project consisting of **10 units or less** (excluding construction projects where a person is performing construction on their current residence either alone or solely with members of their own household);
- For commercial projects, any construction, renovation, or tenant improvement project consisting of **20,000 square feet of floor area or less**;
- For mixed use projects, any project that meets both of the above specifications, i.e., 10 units or less **and** 20,000 square feet of floor area or less;



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- All other construction projects that are not subject to the Large Construction Safety Protocol.

The Shelter Orders define a large construction project as a construction project meeting **any** of the following specifications:

- For residential projects, any single-family, multi-family, senior, student, or other residential construction, renovation, or remodel project consisting of **more than 10 units**;
- For commercial projects, any construction, renovation, or tenant improvement project consisting of **more than 20,000 square feet of floor area**;
- For construction of Essential Infrastructure, as defined in the Shelter Orders, any project that requires **five or more workers at the jobsite** at any one time.

The SCP and LCP Protocols both include detailed requirements and restrictions. For example, both require that workers maintain a minimum six-foot distance at all times, except as strictly necessary to carry out a task associated with the construction project. Both Protocols require that personal protective equipment (PPE) specifically for use in construction be provided to personnel. However, the LCP Protocol contains several additional or more stringent requirements, such as the requirement that a third-party Jobsite Safety Accountability Supervisor (JSAS) meeting certain minimum experience requirements be assigned to verify compliance with the LCP Protocol. ;In addition to the Construction Safety Protocols discussed above, the construction jobsite must also comply with the [State Shelter Order](#) and applicable OSHA and Cal-OSHA regulations.

Bay Area owners, developers and contractors looking to resume construction should (1) carefully review the new Shelter Order for the jurisdiction where their project is located, (2) determine whether their project is a small or large project, as defined in the Shelter Order, (3) carefully review the applicable Construction Safety Protocol (i.e., the SCP Protocol or the LCP Protocol), and (4) develop a plan to meet the requirements of the applicable Construction Safety Protocol, the State Shelter Order and OSHA regulations.

Interested contractors, owners or developers should contact [Michelle Akerman](#) or [Marc Coats](#) with any questions. For more on how the COVID-19 pandemic is impacting the construction industry, please visit [Hanson Bridgett's COVID-19 Resource Center](#).

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