

How Coronavirus Is Affecting the Construction Industry: An Evolving Tracker of Construction Shutdowns Across the United States

Updated Friday, March 27, 2020 @ 3:00 PM EST to reflect orders that have been clarified or issued in Arizona, California, Colorado, Idaho, Minnesota, New York, Pennsylvania, Texas, Vermont, and Washington.

The US construction market has been upended by the COVID-19 pandemic. Rapidly evolving state and local orders governing business closures, limitations on social gatherings, and restrictions on commerce are being issued and clarified daily. Foley's nationally ranked Construction Practice has been continually tracking those states in which construction has been impacted by such orders. Our construction tracker serves as a critical resource for owners, contractors, laborers and suppliers trying to make sense of the current landscape. Please note, even in states where construction is permitted to continue, the health and safety of all who access and work on construction sites and adherence to social distancing requirements must be the utmost priority. Updates should be made to health and safety plans and project parties should work together to determine best practices for maintaining the health, welfare, and safety of all.

Parties seeking to understand how governing law may impact their construction project should seek advice of counsel. The following guidance is not meant to confer legal advice. This guidance is based on our best judgment of available information in a rapidly changing and uncertain environment. We cannot guarantee that governmental authorities will concur with our analysis nor can we guarantee how your particular project will be treated under the law. If you have questions on any matters related to safety, project suspension, applicability of force majeure provisions, or contractual rights to suspend or terminate, please contact any of the lawyers in Foley's Construction Practice.

State	Construction Impact	Express Restrictions and Guidance	Local Variances and Additional Considerations
Alaska	Construction Allowed to Continue; Restrictions on Out- of-State Workers	Effective March 25, 2020 at 12:01 a.m., all people arriving in Alaska from another state or country, whether resident, worker or visitor, are ordered to self-quarantine for 14 days and monitor for illness. The quarantine requirements do not apply if persons support critical infrastructure as identified here. Critical infrastructure includes public works construction and construction of housing.	Anchorage: Effective March 22, 2020, everyone in the City is ordered to stay at home. Certain critical businesses are encouraged to stay open while implementing social distancing to the greatest extent possible. "Critical Infrastructure" is considered a critical business and includes work necessary to the operations and maintenance of: The Port of Alaska; Public works construction; Construction of housing; Airport operations; Water, sewer, gas and electrical services;

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			 Oil production; roads and highways; Trucking and shipping companies; Public transportation; Solid waste collection and removal; and Internet, and telecommunications systems
Arizona	Construction Allowed to Continue	 Governor Ducey ordered that no county or municipality may restricts any person from performing an essential function. Essential functions include: Construction (including but not limited to, construction required in response to the public health emergency, hospital construction, construction of long-term care facilities, public works construction and housing construction); and Building and construction tradesmen and tradeswomen, and other trades including but not limited to plumbers, electricians, operating engineers, and HVAC workers. 	
California	Construction Allowed to Continue; Municipal Restrictions in San Francisco, Los Angeles and Surrounding Counties	All individuals living in the State of California must stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors identified by the Department of Homeland Security and other sectors identified by the Director of the California Department of Public Health, which includes construction and, particularly, housing construction. Further guidance issued by the California State Public Health Officer has designated the following as "essential": construction, operation,	City of Los Angeles: Effective March 19, 2020 and continuing until April 19, 2020, all persons are ordered to remain in their home and all businesses within the City are ordered to cease operations. Exceptions related to construction fall under "Essential Infrastructure" and includes: Construction of commercial, office and institutional buildings, residential buildings and housing; Airport operations, food supply, concessions, and construction; and Port operations and construction. County of Los Angeles: Effective March 21, 2020, and continuing until April 19, 2020, all persons are ordered to remain in their homes and all businesses must cease operations. Exceptions related to

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		inspection, and maintenance of construction sites and construction projects (including housing construction), and workers such as plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of construction sites and construction projects.	construction include "Essential Businesses" and the "Essential Infrastructure" sector, which include: Construction workers supporting the operation, inspection, and maintenance of construction sites and projects, including housing construction; Public works construction; and Construction of commercial, office, residential and institutional buildings. City and County of San Francisco: As of March 16, 2020, all persons in the City and County of San Francisco must "shelter in place" until April 7, 2020. Individuals are excluded from the order to the extent they provide certain essential activities and work to provide essential business and government services. Exceptions related to construction fall under "Essential Infrastructure" and include: Public works construction; Construction of housing (in particular affordable housing or housing for the homeless); Airport operations; Water/sewer/gas/electrical services; Oil refining; Roads and highways; Public transportation; Solid waste collection and removal; and Internet and telecommunications systems. Seven other counties in northern California have issued shelter-in-place orders (see below) with more expansive restrictions concerning the construction industry, generally permitting only public infrastructure construction and construction of housing. In these counties, the local orders should be followed. Alameda, Contra Costa, Sacramento, Santa Clara, Santa Cruz, San Mateo, and Sonoma counties have all issued shelter-in-place orders that likewise classify

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			public infrastructure and housing construction as essential businesses that can continue. Monterey County's order includes the same language, but also allows on-going commercial construction projects that had commenced before the order's effective date to continue. And while Marin County's order uses the same language, its Health and Human Services website is reporting that: All partially completed residential construction projects can continue to completion in order to ensure health and safety; New construction projects may not begin unless they add to the supply of housing stock by building a second unit or a new home, or maintaining the habitability of homes in order to avoid displacement of residents; and Business construction projects related to maintaining or upgrading essential business, government, or health care infrastructure may continue. For more in depth understanding of California state and local orders and the impact of such orders on the lives of California residents and businesses, please see Foley's alert Managing the Commercial Impact of the Coronavirus: Sixteen Counties and Three Cities in California Under Shelter In Place Order or Directive.
Colorado	Construction Allowed to Continue; Municipal Restrictions in San Miguel County	Effective March 26, 2020 at 6:00 a.m. and continuing until April 11, 2020, all persons are <u>ordered</u> stay at home and all businesses must close. Exceptions related to construction fall under the "Critical Business" sectors <u>identified</u> by the Colorado Department of Public Health and Environment, and include:	San Miguel County, including Telluride: Effective March 21, 2020, all businesses are ordered to close, except for Essential Businesses. Residential and commercial construction is expressly shut down except for Minimum Basic Operations (site security). Exceptions to the shutdown include any construction activities that support Essential Businesses, Essential Infrastructure or Essential Government Functions.

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		 Construction (including but not limited to housing and housing for low-income and vulnerable people); Skilled trades such as electricians, plumbers; and Other related firms and professionals for who provide services necessary to maintain the safety, sanitation, and critical operation of residences and other Critical Businesses or Critical Government Functions, and other essential services. 	These exceptions include construction related to, among other things: Public Works; Public Welfare; Utilities; Health Care Operations; Airports; and Oil Refining.
Connecticut	Construction Allowed to Continue	Effective March 23, 2020 and continuing through April 22, 2020, all non-essential businesses or not-for-profit entities are ordered to reduce their in-person workforces by 100%. The Department of Economic and Community Development shall issue lawfully binding guidance about which businesses are essential and those businesses shall include construction businesses.	
Delaware	Construction Allowed to Continue	Effective March 24, 2020 at 8:00 a.m. and continuing until May 15, 2020, all Non-Essential Businesses are ordered to close. Essential Businesses include businesses that employ workers in residential, nonresidential and infrastructure construction and workers who provide critical maintenance to residential or non-residential structures.	
Florida	Construction Allowed to Continue	No statewide order affecting construction. For more in depth understanding of Florida's resident isolation and quarantine of individuals entering the state, please see Foley's alert Florida Governor Issues Executive Order	Miami : All non-essential retail and commercial establishments are <u>ordered</u> to close. Contractors, tradesmen and other service providers are excluded from the order to close.

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		Requiring Isolation or Quarantine of All Individuals Entering Florida From New York Tri-State Area in Response to the Coronavirus.	
Georgia	Construction Allowed to Continue, Municipal Restrictions in Atlanta and Athens-Clare County	No statewide order affecting construction.	Atlanta: Effective March 24, 2020, all Non-Essential Businesses are ordered to close. "Essential Businesses" include construction. Athens-Clarke County, including Athens: All businesses in the county, except for Essential Businesses, are required to cease all activities, except Minimum Basic Operations, located within the County. The order includes public works construction, construction and all related activities (in particular affordable housing or housing for individuals experiencing homelessness), and plumbers, electricians, exterminators, and other service providers who provide services necessary to maintaining the safety, sanitation and essential operation of the construction, as Essential Businesses.
Hawaii	Construction Suspended Except for Essential Infrastructure	Effective at 12:01 a.m. on March 25, 2020, and until 11:59 p.m. on April 30, 2020 all persons within the state are ordered to stay home, except to travel to and from Essential Business and Operations. All Non-Essential Businesses and Operations must cease operations. Exceptions related to construction fall under sectors identified by the U.S. Department of Homeland Security, Cybersecurity & Infrastructure Security Agency (CISA) as essential and "Critical Trades" and include:	

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		 Construction of critical or strategic infrastructure; and Building and construction tradesmen and tradeswomen, and other trades including but not limited to plumbers, electricians, operating engineers, and HVAC workers. 	
Idaho	Construction Allowed to Continue	Effective March 25, 2020 and continuing until April 15, 2020, all businesses, except for Essential Businesses, are ordered to close. Exceptions related to construction fall under sectors identified by CISA as essential and "Essential Infrastructure" and include: Public works construction; Commercial construction; and Construction of housing (in particular affordable housing and housing for those individuals experiencing homelessness).	Blaine County: All businesses in the county, except Essential Businesses, are required to cease all activities, except Minimum Businesses Operations, located within the county. The order includes public works construction, commercial construction, construction of housing (in particular affordable housing or housing for individuals experiencing homelessness), and plumbers, electricians, exterminators, and other service providers who provide services necessary to maintaining the safety, sanitation and essential operation of the construction, as Essential Businesses.
Illinois	Construction Allowed to Continue	Effective March 21, 2020 and continuing until April 7, 2020, all individuals living within the State of Illinois are ordered to stay at home or at their place of residence except to perform Essential Activities or Essential Government Functions, or to operate Essential Businesses and Operations. The order identifies construction (including but not limited to construction required in response to the order, hospital construction, construction of long-term care facilities, public works construction, and housing construction) as an Essential Business and Operation. See Foley's CRC website for more information regarding the Illinois order.	

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Indiana	Construction Allowed to Continue	Effective at 11:59 p.m. on March 24, 2020 until April 6, 2020, all residents are ordered to stay home and all nonessential businesses are ordered to cease. Exceptions related to construction fall under sectors identified by CISA as essential, "Essential Infrastructure" and "Critical Trades", and include: Construction (including but not limited to, construction required in response to this public health emergency, hospital construction, construction of long-term care facilities, public works construction, school construction, essential business construction and housing construction); Construction of critical or strategic infrastructure; and Building and construction tradesmen and tradeswomen, and other trades including but not limited to plumbers, electricians, operating engineers, HVAC, painting, and other service providers who provide services that are necessary to maintain the safety, sanitation and essential operation of residences, Essential	
		Activities, and Essential Businesses and Operations.	
Louisiana	Construction Suspended Except for Critical or Strategic Infrastructure	Effective March 23, 2020 and continuing until April 13, 2020, all individuals are ordered to stay at home unless performing an essential activity or an essential worker function. Guidance of what constitutes an essential worker function is provided by CISA, which guidance includes "construction of critical"	

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		or strategic infrastructure" as an essential worker function.	
Maryland	Construction Allowed to Continue	Effective 5:00 p.m. on March 23, 2020, all businesses are ordered closed other than those businesses that are part of the critical infrastructure sectors identified by guidance issued by the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security Agency. Interpretative guidance issued on March 23 by the Maryland Office of Legal Counsel clarifies that commercial and residential construction companies are exempt from the order to close.	
Massachusetts	Construction Allowed to Continue Statewide; Prior Municipal Restrictions Are Being Contested	Effective Tuesday, March 24, 2020 at Noon, Governor Charlie Baker has ordered a statewide stay-at-home directive for Massachusetts residents until Tuesday, April 7, 2020 at Noon - unless extended. Certain services – including the services of construction workers who support the construction, operation, inspection and maintenance of construction sites and construction projects – are considered exempt as a COVID-19 Essential Service.	On March 25, 2020, the Governor's Legal Office issued a letter to all municipalities clarifying the March 24 order specifically with respect to construction. Governor Baker ordered all municipalities to rescind any previous orders to the contrary. Later on March 25, in direct response to the letter from the Governor's Legal Office, Boston Mayor Marty Walsh affirmatively extended his March 16 order suspending all non-essential, permitted construction in Boston. Somerville and Cambridge quickly followed Boston's lead in keeping construction shut down. On March 26, Governor Baker stated in a press conference that he understand Mayor Walsh's concerns and, on the morning of March 27, he temporarily halted public construction projects in the state to focus on safety and the implementation of the safety guidelines attached to his March 25 letter to municipalities.
Michigan	Construction Suspended Except Construction of Public Works and	Effective Tuesday, March 24 at 12:01 a.m. and continuing through at least April 13, all residents of Michigan are subject to a <u>Stay-Home</u> , <u>Stay-Safe at</u>	

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	Public Health Infrastructure	Home Executive Order. "Critical infrastructure workers" are exempt from the order. This includes workers described in the directive issued by CISA, including construction workers of critical or strategic infrastructure. Executive Order 2020-21 FAQ further clarifies that construction to maintain and improve essential public works like roads, bridges, the telecommunications	
		infrastructure, and public health infrastructure is permitted to continue. Construction workers may also undertake such projects as necessary to maintain and improve the safety, sanitation, and essential operations of residences. In addition, businesses may designate construction firms to provide necessary support to the work of the businesses' otherwise critical infrastructure workers. All construction work that is carried out, however, must be done in accordance with the social distancing requirements set forth in the order.	
		As set forth on Foley's CRC website regarding the Michigan order, not all employees are considered "critical infrastructure workers" and businesses must so specify those workers in writing by March 31.	
Minnesota	Construction Suspended Except for Critical or Strategic Infrastructure	Effective 11:59 pm on March 27, 2020 and continuing until 5:00 pm on April 10, 2020, all workers are ordered to stay at home. Exceptions related to construction fall under sectors identified by CISA as essential and "Construction and Critical Trades", which include:	

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		 Construction of critical or strategic infrastructure; and Workers in the skilled trades such as electricians, plumbers, HVAC and elevator technicians, other related construction of all kind, operating engineers, and all other service providers who provide services that are necessary to maintain the safety, sanitation, and essential operation of homes and residences and the Critical Sectors listed in the order. 	
Nevada	Construction Allowed to Continue	Effective March 20, 2020 at 11:59 p.m., non-essential businesses in the state are ordered to close. The order permits construction and infrastructure sector labor forces to continue operations.	
New Mexico	Construction Allowed to Continue	Effective March 24, 2020, all non- essential businesses are <u>ordered</u> to close. Public works, commercial and residential construction are all deemed essential and permitted to continue operating.	
New York	Construction Suspended; Exemptions for Emergency Repairs and Construction of Public Works, Hospitals and Affordable Housing	Effective March 22, 2020 at 8:00 p.m., all nonessential businesses are ordered to close. In connection with the Governor's Order, the Empire State Development Corporation ("ESDC") issued updated guidance on March 27 that only "essential construction" should continue, which includes the following projects: • Emergency repairs necessary to protect health and safety of the occupants or for which it would be unsafe to allow to remain undone until it is safe to shut the site;	New York City: The New York City Mayor's office announced on March 22, 2020 that the City is enforcing the closure of all nonessential businesses consistent with the State Executive Order. Although a moratorium on nonessential construction in NYC had been considered earlier, no such mandate has been reduced to Mayoral Order or otherwise.

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		 Roads; Bridges; Utilities; Hospitals or health care facilities; Affordable housing; and Homeless shelters. According to the ESDC, for businesses that operate or provide both essential and non-essential services, supplies or support, only those operations necessary to support essential services, supplies, or support may continue. While the ESDC is considering requests for essential services designation (such forms are found here) requests by businesses to be designated essential "should only be made if they are NOT covered by the guidance." For more in depth understanding of Governor Cuomo's Order and related New York initiatives to protect the public, please see Foley's alert New York Governor Cuomo's Order Reducing Workplace Density Due to 	
Ohio	Construction Allowed to Continue	Coronavirus. Effective March 23, 2020 at 11:59 p.m. and continuing until April 6, 2020, all non-essential business and operations are ordered to cease and all individuals currently living in the state must stay at their place of residence. Exceptions related to construction fall under sectors identified by CISA as essential, "Essential Infrastructure" and "Critical Trades", and include:	

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		 Construction (including but not limited to, construction required in response to this public health emergency, hospital construction, construction of long-term care facilities, public works construction, school construction, essential business construction and housing construction); Construction of critical or strategic infrastructure; and Building and construction tradesmen and tradeswomen, and other trades including but not limited to plumbers, electricians, operating engineers, HVAC, painting, and other service providers who provide services that are necessary to maintain the safety, sanitation and essential operation of residences, Essential Activities, and Essential Businesses and Operations. 	
Oregon	Construction Allowed to Continue	Effective 12:01 a.m. on March 24, 2020, all businesses are <u>ordered</u> to facilitate telework and work-at-home by employees to the maximum extent possible. The State has specific guidance for contractors to implement social distancing policies, available <u>here</u> .	Portland: Effective March 25, 2020 at 5:00 p.m., all businesses within the city that do not provide Essential Services are <u>ordered</u> to close. Businesses that provide Essential Services are encouraged to stay open. Existing or ongoing construction projects are listed as Essential Services.
Pennsylvania	All Construction Suspended; Exceptions for Hospitals and Emergency Repairs	Effective March 19, 2020 at 8pm EST, all "non-life sustaining businesses" in the Commonwealth of Pennsylvania are closed until further notice. This includes closures to the construction sector, including: Construction of buildings (residential and nonresidential); Heavy and Civil Construction (utilities, land subdivisions,	The Pennsylvania statewide order came only days after Philadelphia Mayor Jim Kenney exempted construction activity from the mandatory closure of all nonessential businesses in Philadelphia.

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		highways/streets/bridges, and other heavy and civil engineering) Specialty trade contractors (foundations/structures/building interiors, building equipment, building finishes and other trades). The order, however, allows the construction of hospitals and emergency repairs to all buildings to continue. A complete list of closures by industry can be found here.	
Texas	Construction Allowed to Continue; Municipal Restrictions in Austin, Travis County, Dallas County and Harris County	No statewide order affecting construction.	City of Austin and Travis County: Effective as of 11:59 p.m. March 24, 2020 and continuing until April 13, 2020, all businesses, other than Essential Businesses, are ordered to cease all activities, except Minimum Basic Operations. The City issued guidance that construction is only permitted to continue on the following types of construction projects: Public works; Affordable housing; Homeless Shelters or facilities for the homeless; Social services facilities; Construction of facilities that are otherwise deemed Essential Businesses, Essential Government Functions or Critical Infrastructure; Facilities required by the City in response to the COVID-19 emergency. If part of a project falls within one of the above listed categories, but the project also includes other construction activities at the same site that do not, all construction within the site will be permitted. Contractors have until 11:59 p.m. March 27, 2020 to close down construction activities that are not deemed essential as defined above.

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			The Travis County order mirrors the City of Austin order.
			For more in depth understanding of Austin's order, please see Foley's alert <u>Austin, Texas Mayor Issues</u> "Stay Home – Stay Safe" Order.
			Dallas County: Effective March 23, 2020 at 11:59 p.m., all nonessential businesses are ordered to cease all activities at facilities located within the County. Residential, commercial and public works construction are listed as "Essential businesses" and are allowed to continue.
			Harris County: Effective as of 11:59 p.m. on March 24, 2020, and continuing until 11:59 p.m. on April 3, 2020, all individuals within Harris County are ordered to stay at their place of residence and all businesses operating in the County, except Essential Businesses, are required to cease all activities. Residential, commercial and public works construction are listed as "Essential Businesses" and are allowed to continue.
			For more in depth understanding of Harris County's order, please see Foley's alert Harris County Judge Lina Hidalgo Announces a "Stay Home Work Safe" Order To Take Effect at 11:59 p.m. on March 24.
			City of San Antonio: Effective as of 11:59 p.m. on March 24, 2020, and continuing until 11:59 p.m. on April 9, 2020, all individuals currently living within the City of San Antonio are <u>ordered</u> to shelter at their place of residence and all Non-Exempt Businesses must close. Exempted Businesses mean businesses related to:
			 public works construction construction of housing commercial construction

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			 street and highway maintenance and construction The Bexar County <u>order</u> mirrors the City of San Antonio order.
Vermont	Construction Suspended; Exemptions for Critical Infrastructure and COVID-19 Response	Effective March 25, 2020 at 5:00 pm, all businesses are ordered to cease inperson operations. Construction necessary to support the COVID-19 response and maintain critical infrastructure is exempt from the order.	
Washington	Construction Suspended; Exemptions for Critical or Strategic Infrastructure, Housing, Emergency Repairs and Projects that Ensure Structural Integrity	 Effective midnight on March 25, 2020 until April 8, 2020, all residents are ordered to stay home and Non-Essential Businesses are ordered to close, except for performing minimum business operations. Residents and businesses exempt from the order are listed here, and include: Construction of critical or strategic infrastructure; Construction workers that support construction, operation, inspection and maintenance of construction sites and construction projects (including housing construction) for all essential facilities, services and projects otherwise exempted; Residential construction related to emergency repairs and projects that ensure structural integrity; and Plumbers, electricians and other who provide services that are necessary to maintaining the safety, sanitation and essential operation of construction sites and projects. 	The Governor further clarified that commercial and residential construction are not generally permitted, other than: Construction related to essential activities explicitly described in the order; To further a public purpose related to a public entity or governmental function or facility, including but not limited to publicly financed low-income housing; or To prevent spoliation and avoid damage or unsafe conditions, and address emergency repairs at both non-essential businesses and residential structures.

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West Virginia	Construction Allowed to Continue	Effective at 8:00 p.m. on March 24, 2020, all residents are ordered to stay home and all Non-Essential Businesses and Operations must temporarily cease operations, except for minimum basic operations. Exceptions related to construction fall under sectors identified by CISA as essential, "Essential Infrastructure" and "Critical Trades", and include: Construction (including but not limited to, construction required in response to the public health emergency, hospital construction, construction of long-term care facilities, public works construction, school construction, essential business construction and housing construction); Construction of critical or strategic infrastructure; and Building and construction tradesmen and tradeswomen, and other trades including but not limited to plumbers, electricians, operating engineers, HVAC engineers, and other service providers who provide services that are necessary to maintain the safety, sanitation and essential operation of residences, Essential Activities, and Essential Businesses and Operations.	
Wisconsin	Construction Allowed to Continue, Optional or Aesthetic Construction Should be Avoided	Effective at March 25, 2020 at 8:00 a.m. and continuing until April 24, 2020 at 8:00 a.m., all Non-Essential Business and Operations are ordered to cease. Exceptions related to construction fall under sectors identified by CISA as	The State of Wisconsin order supersedes any local order that is in conflict with the order.

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		 essential, "Essential Infrastructure" and "Critical Trades", and include: Construction (including but not limited to, construction required in response to the public health emergency, hospital construction, construction of long-term care and assisted living facilities, public works construction, school construction, Essential Business and Operations construction, construction necessary for Essential Government Functions, and housing construction, except that optional or aesthetic construction should be avoided); Construction of critical or strategic infrastructure; and Building and construction tradesmen and tradeswomen, and other trades including but not limited to plumbers, electricians, carpenters, laborers, sheet metal, iron workers, masonry, pipe trades, fabricators, finishers, operating engineers, HVAC, painting, and other service providers who provide services that are necessary to maintain the safety, sanitation and essential operation of residences, Essential Activities, Essential Governmental Functions, and Essential Businesses and Operations. 	