



## MEMO

To: Senior Officers  
Board of Directors  
State/Local Executive Officers

From: Office of Legal Affairs  
Office of Government Affairs

Date: March 19, 2020

Subject: Remain in Place Orders and Home Building Industry Response

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On Monday, March 16, 2020, the City and County of San Francisco issued a Public Health Order<sup>1</sup> requiring residents to remain in place in order to slow the spread of COVID-19. The Order is effective immediately and lasts, for now, until April 7<sup>th</sup>, but can be extended if necessary. As expanded below, the Order provides an exemption for the construction of housing. NAHB anticipates that other state and local jurisdictions will implement similar measures in the coming days/weeks. This memo provides an overview of the situation and provides talking points for how the NAHB federation should advocate to include the construction of housing and other similar and/or related services as an “essential business.”

### **I. SAN FRANCISCO PUBLIC HEALTH ORDER SUMMARY**

The Order essentially prohibits all activity and all travel, except for three categories: Essential Activities, Essential Businesses, and Essential Government Functions. Under all circumstances, including that under one of the three Essential categories, people should maintain a social distance of 6 feet from each other.

As mentioned, individuals can continue Essential Activities. This includes going to the doctor, getting necessary supplies for the household (like groceries), going for a walk/run, caring for a family member or other vulnerable person and, of most importance here, “performing work to provide essential services at an Essential Business or Essential Government Function.”

The Order lists a number of Essential Businesses allowed to continue operating, including healthcare facilities, grocery stores, pharmacies, gas stations, banks, laundromats, childcare, and more. Of importance here, “Essential Infrastructure, *including construction of housing and operation of public transportation and utilities*” **is considered an Essential Business**. Further, hardware stores, plumbers, electricians, and other service providers necessary to maintain the safety, sanitation, and essential operation of residences and other essential businesses” are also permitted.

Finally, a broad grant is given for government to continue functions, including “all [government] services needed to ensure the continuing operation of the government agencies and provide for the health, safety, and welfare of the public.

## **II. WHAT THE NAHB FEDERATION CAN DO TO PRESERVE THE HOUSING INDUSTRY DURING THIS TIME**

NAHB members across the country should prepare for the possibility that similar “remain in place” orders will go into effect in their jurisdiction. The Order illuminates a number of decisions made by San Francisco that implicates housing and should be used by the NAHB federation as a teaching moment when dealing with a similar remain in place proposal in their jurisdiction. The following list may quickly evolve due to the nature of the issue, but here are the essential advocacy points that state and local HBAs should advance:

- **Jurisdictions must recognize that construction of housing is essential and should be allowed to continue under a remain in place order;**
- **Government functions related to the building and development process, such as inspections, permitting, and plan review services can be modified to adapt to the need to protect the public health, but fundamentally should continue and serve the construction of housing (ex. allow third-party inspections if government shuts down);**
- **Supply stores necessary to serve the construction, repair, and maintenance of housing should be allowed to operate; and**
- **Those working as plumbers, electricians, heating/cooling, and others in the building trades must be allowed to continue to maintain the essential operation of residences and other operating businesses.**

Below are talking points to help advance the essential advocacy points.

## **III. HOUSING CONSTRUCTION AND SUPPORTING ACTIVITIES CAN CONTINUE WITHOUT IMPEDING ON THE PUBLIC HEALTH**

As a fundamental point, NAHB members should argue that building houses has unique characteristics that allow for housing construction and supporting businesses to continue without impinging on the public health. The Occupation Safety and Health Administration’s (OSHA) guidance titled *Guidance on Preparing Workplaces for COVID-19* divides job tasks into different risk categories; very high, high, medium, and lower risk.

According to OSHA, “Lower exposure risk (caution) jobs are those that do not require contact with people known to be, or suspected of being, infected with SARS-CoV-2 nor frequent close contact with (i.e.,

within 6 feet of) the general public. Workers in this category have minimal occupational contact with the public and other coworkers.” *Guidance*, p.20.

A large majority, if not all, land development and residential construction job tasks fall within OSHA’s Lower Exposure Risk jobs. Obviously, working on a new unfinished home site occurs primarily outdoors and does not involve going onto a location occupied by residents or a public location, and there is minimal (if any) physical or transactional contact with customers compared to other customer/client relationships.

Furthermore, residential builders, developers and contractors are complying with OSHA’s Alert—*Prevent Worker Exposure to Coronavirus (COVID-19)* to ensure protection between workers.

#### **IV. HOUSING IS PART OF THE ESSENTIAL INFRASTRUCTURE**

New home construction/remodeling and incidental businesses must be considered part of the Essential Infrastructure so that people continue to have habitable places to live now and after the pandemic is over. Half completed remodeling projects cannot be halted due to concerns of homeowner safety and habitability. Similarly, new home projects also cannot be halted due concerns with site safety, negative environmental impacts and waste.

Furthermore, there are cascading impacts to future homeowners and the community if projects are halted for weeks or months.

NAHB Staff spoke with California BIA staff, who mentioned that they are trying to get additional and clarifying language included under “Essential Infrastructure” for remain in place orders. This could include additional language that Essential Infrastructure would include, but not be limited to, public works construction, the permitting, inspection, construction, transfer and recording of ownership, of housing and anything incidental thereto, airport operations, water, sewer, gas, electrical, oil refining, roads and highways, public transportation, solid waste collection and removal, internet, and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services).

Similarly, NAHB should urge that housing materials and improvement retailers should be included as essential. NAHB is aware of a letter from the North American Retail Hardware Association (NARHA) urging our nation’s leaders to consider “locally owned home improvement stores among those retail operations to be “essential” and allow these business owners the option to stay open as a public service.” The NARHA letter noted that the “products carried by independent home improvement retailers serving communities across North America, these stores provide much-needed service to individuals and contractors, providing them with the products and support requirement to keep their homes and communities safe, secure and functioning.”

## **V. HOME BUILDING IS AN ESSENTIAL ECONOMIC ACTIVITY**

Housing is a major engine of the economy and keeping the men and women of the industry building must be a priority. NAHB should continue to advocate that the industry can keep people employed while honoring the safe work and socialization guidelines published by public health officials.

Housing is currently 14.6% of Gross Domestic Product. Housing contributes to economic growth in two basic ways:

- Residential investment (currently 3.1% or \$602 billion annually), which includes construction of new single-family and multifamily structures, residential remodeling, production of manufactured homes, and brokers' fees;
- Consumption spending on housing services (currently 11.4% of GDP or \$2.2 trillion), which includes gross rents and utilities paid by renters, as well as owners' imputed rents and utility payments. This is the flow of housing services that the existing housing stock creates for owners and residents of all forms of housing in the nation.

Homes are purchased, built and financed on strict timeframes. If construction is disrupted, it creates a domino effect creating tremendous consequences upon the already-burdened economy.

For example, according to NAHB estimates, for every 1,000 single-family home under construction, 2,975 jobs are sustained, with approximately 40% of those positions outside the construction industry itself. Moreover, these activities provide a flow of revenue directly to local government. For every 1,000 single-family homes built, \$74.4 million in federal taxes and \$30.9 million in local fees and taxes are paid. For every 1,000 multifamily units, there is an estimated job impact of 1,133 jobs, with \$28.4 million in federal taxes and \$11.9 million in local taxes and fees paid. Similar impacts occur with respect to remodeling, which is essential to maintaining homes, shelter being key to individual well-being during this period. Every \$100 million in remodeling spending supports 890 jobs and supports \$29.8 million in taxes and fees.

<http://eyeonhousing.org/2016/06/what-building-1000-homes-means-to-the-u-s-economy/>  
<https://www.nahbclassic.org/generic.aspx?sectionID=734&genericContentID=227858&channelID=311>

## **VI. GOVERNMENT SUPPORT MUST CONTINUE**

Homebuilding (including remodeling and repair) is highly regulated and therefore cannot occur without support from the locality where it occurs. Builders require governmental approvals and permits to begin a project and they are needed throughout. Therefore, governmental inspections occur along the entire process from the land development to final certificate of occupancy.

As part of the Essential Infrastructure, residential construction requires that government building and zoning departments continue to operate. Furthermore, for the safety and wellbeing of current and future occupants, governments must allow inspections to occur in a timely manner.

The inspection process may benefit from modifications. For example, if possible, inspectors may work “off hours” to minimize any contact with the construction team. Or they can make other arrangements with the owner or general contractor to safeguard their health by ensuring nobody will be on site during an inspection. Furthermore, certain localities use third-party engineers to sign off on inspections. It may be necessary for home builders to request this option if local governments are closing their building department during the pandemic.