



### **“Stay at Home” Order**

Earlier this week, the President amended the federal guidance on the stay at home order extending it until the end of April. The County of San Diego also extended its public health rules, including group size mandates, as well as social distancing rules indefinitely. Here is the updated order:

<https://www.sandiegocounty.gov/content/dam/sdc/hhsa/programs/phs/Epidemiology/HealthOfficerOrderCOVID19.pdf>).

### **Essential Services**

There has not been any further change to either the definitions or the rules for “essential services” as previously defined by Governor Newsome’s Executive Order (EO) to “stay at home” issued on March 19, 2020 (<https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-ORDER.pdf>) . The EO provided guidance on “Essential Critical Infrastructure Workers” and pointed to the federal guidance contained within the EO by reference (<https://www.cisa.gov/critical-infrastructure-sectors>) . That was updated on March 28<sup>th</sup>, but did not change the applicability for commercial real estate. <https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce>

For now, at the local, state and federal levels, NAIOP Corporate and NAIOP CAL, in addition to our local team, are working to make sure our members continue to be seen as essential, since our services include economic resiliency and sustainability. We are also working to make sure that local government operations related to our members’ needs, like planning, permitting and inspections also continue.

### **NEW County of San Diego Health Order – Including Mandated Posting Requirement**

The County of San Diego, effective at 12:00am April 3<sup>rd</sup>, has established new guidance on covering faces for those in essential service sectors. Here’s a link to the County Health Order: [https://www.sandiegocounty.gov/content/dam/sdc/hhsa/programs/phs/Epidemiology/covid19/Addendum regarding face coverings and public parks.pdf](https://www.sandiegocounty.gov/content/dam/sdc/hhsa/programs/phs/Epidemiology/covid19/Addendum%20regarding%20face%20coverings%20and%20public%20parks.pdf)

**IMPORTANT** - In another order, essential businesses that have remained open and allow access to members of the public will be required to create a document outlining their protocol on physical distancing and hygiene. The document must be available to the public and employees and be ***posted at the entrance*** to the business beginning midnight Monday (April 6<sup>th</sup>). Here’s a link to the document:

[https://www.sandiegocounty.gov/content/dam/sdc/hhsa/programs/phs/Epidemiology/covid19/SOCIAL\\_DISTANCING\\_AND\\_SANITATION\\_PROTOCOL\\_04022020\\_V1.pdf](https://www.sandiegocounty.gov/content/dam/sdc/hhsa/programs/phs/Epidemiology/covid19/SOCIAL_DISTANCING_AND_SANITATION_PROTOCOL_04022020_V1.pdf)

### **\*\*\*UPDATE!!! Eviction Moratorium Ordinances**

A number of jurisdictions are adopting and/or considering residential and commercial eviction moratoriums. NAIOP San Diego has been actively engaging these jurisdictions to make sure property owners are considered and that the “system” that is commercial real estate is understood. We’ve also made it clear that property owners are working with their tenants, particularly those that are most directly impacted by this crisis and the health orders being issued by government agencies.

The key provisions we’re asking for should a jurisdiction decide to move forward include:

- Communication of non-payment occurs prior to the date rent is due
- Proof of hardship is required
- Reasonable deadlines for providing proof of hardship to the landlord (1 week)
- That the ordinance expires when the official emergency expires per government order
- Rent is required to be paid back (e.g. the obligation is not waived)
- Payment plans worked out between the property owner and tenant are allowed

So far (and this is not exhaustive, as some jurisdictions are unresponsive due to closures), the following jurisdictions **HAVE** adopted an ordinance:

- County of San Diego – unincorporated area
- City of San Diego
- City of San Marcos
- City of Encinitas
- City of Oceanside
- City of Vista (following Governor’s order, which applies only to residential evictions)

These are pending consideration:

- City of Del Mar – April 6
- City of Carlsbad – April 7
- City of Poway – April 7
- City of Escondido – April 8

### **\*\*\*UPDATE!!! Property Taxes**

Many property owners who have not already paid their second installment of property taxes are seeking relief to help bridge the gap during this crisis. With April 10 quickly approaching, at the local level we are advocating the San Diego County Treasurer-Tax Collector issue a blanket waiver for late fees and penalties for at least 90 days if the second installment can’t be made due to income loss resulting from the COVID-19 crisis. At the state level, NAIOP California has asked the Governor to waive late fees and penalties for late payment of property taxes. They have also been working with the Lieutenant Governor, Treasure and other state officials. So

far, as of yesterday's daily press briefing by the Governor, no decision has been made, and likely won't until the date gets closer (in order to maximize payments and revenue).

### **\*\*\*UPDATE!!!! CA State Legislature**

The legislature announced TODAY that they will not reconvene on April 13<sup>th</sup> and the timing of reconvening is uncertain. As a result, the Assembly and Senate leadership, as well as many committee chairs, are asking members to look at their respective bill packages for reduction to those that relate to the crisis. We anticipate that many of the bills that were introduced may likely be tabled for the year. That said, there are likely to be new bills dealing with the COVID-19 crisis that will be directed at real estate, and specifically commercial real estate (dealing with evictions, rent, unpaid rent payment, etc). Previously, NAIOP California has identified over 500 bills of concern to commercial real estate. We will continue to remain vigilant on the previously submitted bills in case any of them move when the session reconvenes, as well as the new measures introduced as a result of the COVID-19 crisis.

### **URGENT - City of Encinitas – Photovoltaic (Solar) and Energy MANDATES**

The City of Encinitas is considering a mandate for new and existing non-residential buildings to install photo-voltaic or enhance energy efficiency beyond Title 24. There are several thresholds that would apply, so it's not just new buildings that would be impacted. ***ALL MEMBERS with properties in Encinitas need to look at the notice and determine the impacts to them.*** The triggers include additional square footage added to building, as well as monetary improvement thresholds in existing construction.

This is broad and far reaching. NAIOP San Diego will be providing input, but we also need our members, particularly those who reside in, own properties or businesses in or conduct business in Encinitas to provide comment back to the City to discourage this mandate.

The city notice is below, and we've included some messaging for your use. If you have any knowledge of direct cost and feasibility, it would be good to include that in your response. And, if you are a constituent, either as a resident or a business owner in the City, you should identify that in your communication.

Message points:

- The State of California's energy efficiency requirements are some of the most stringent in the world
- These requirements include stringent energy efficiency mandates for both new construction, as well as tenant improvements, so a city centric mandate is not necessary
- The requirement for solar installation is costly, and, in most cases, not feasible, as most commercial roof tops do not have the space available to meet the requirements for energy generation under this ordinance
- Roof tops already have HVAC equipment, fire and life safety equipment, building maintenance equipment, as well as screening and other architectural features that make roof top installation infeasible

- The region is also building out large scale sustainable energy production, both in wind and solar, and that production is both more cost effective, as well as more sustainable from an energy production standpoint
- Our energy rates are already paying for these large scale solar and wind energy projects, so this would be an additional, unfunded cost to jobs creators and small business
- For those who can comply, this new mandate will increase rent on small businesses and jobs creators in Encinitas
- Given the current economic situation facing the world, let alone Encinitas, this is not the time, nor the right policy, as it will increase the cost of both new construction, as well as renovation, and for the properties that can actually meet these goals, will also add to the cost of rent for tenants in these properties
- Please reject this new and unnecessary mandate on jobs creation and support your Encinitas business community

NAIOP will be providing comments to the City, but it's important for city business leaders and residents to make their voice heard. Public comments can be made by email to:

[ClimateAction@encinitasca.gov](mailto:ClimateAction@encinitasca.gov). **Comments are due by April 17th.**