



CITY OF CUPERTINO

AGENDA

CITY COUNCIL

This will be a teleconference meeting without a physical location.

Friday, June 5, 2020

4:30 PM

Special Meeting Non-televised Closed Session (4:30) and Televised Open Session (5:45)

TELECONFERENCE / PUBLIC PARTICIPATION INFORMATION TO HELP STOP THE SPREAD OF COVID-19

In accordance with Governor Newsom's Executive Order No-29-20, this will be a teleconference meeting without a physical location to help stop the spread of COVID-19.

Members of the public wishing to observe the open session meeting may do so in one of the following ways:

- 1) Tune to Comcast Channel 26 and AT&T U-Verse Channel 99 on your TV.**
- 2) The meeting will also be streamed live on and online at www.Cupertino.org/youtube and www.Cupertino.org/webcast**

Members of the public wishing comment on an item on the agenda may do so in the following ways:

- 1) E-mail comments for closed or open session by 3:00 p.m. on Friday, June 5 to the Council at citycouncil@cupertino.org. These e-mail comments will also be forwarded to Councilmembers by the City Clerk's office before the meeting and posted to the City's website after the meeting.**
- 2) E-mail comments for closed or open session during the times for public comment during the meeting to the City Clerk at cityclerk@cupertino.org. The City Clerk will read the emails into the record, and display any attachments on the screen, for up to 3 minutes (subject to the Mayor's discretion to shorten time for public comments). Members of the public that wish to share a document must email cityclerk@cupertino.org prior to speaking.**

3) Teleconferencing Instructions

Members of the public may provide oral public comments during the teleconference meeting as follows:

Oral public comments will be accepted during the teleconference meeting. Comments may be made during “oral communications” for matters not on the agenda, and during the public comment period for each agenda item.

To address the City Council, click on the links below to access the closed and open session meetings:

CLOSED SESSION - 4:30 PM

Members of the public may provide oral public comments in open session prior to the closed session teleconference meeting as follows:

To address the City Council, click on the link below to register in advance and access the meeting:

Online

Join Meeting: <https://cityofcupertino.zoom.us/j/99473650027>

Phone

Dial: (888) 788 0099 and enter Meeting ID: 994 7365 0027 (Type *9 to raise hand to speak).

OPEN SESSION - 5:45 PM

Members of the public may provide oral public comments during the open session teleconference meeting as follows:

Oral public comments will be accepted during the open session teleconference meeting. Comments may be made during “oral communications” for matters not on the agenda, and during the public comment period for each agenda item.

To address the City Council, click on the link below to register in advance and access the meeting:

Online

Register in advance for this webinar:

https://cityofcupertino.zoom.us/webinar/register/WN_-nMfFpDjRT-gFf08dy06Sw

Phone

Dial: (888) 788 0099 and enter Webinar ID: 956 6659 6592 (Type *9 to raise hand to speak). Unregistered participants will be called on by the last four digits of their phone number.

Or an H.323/SIP room system:

H.323:

162.255.37.11 (US West)
162.255.36.11 (US East)
Meeting ID: 956 6659 6592
SIP: 95666596592@zoomcrc.com

After registering, you will receive a confirmation email containing information about joining the webinar.

Please read the following instructions carefully:

1. You can directly download the teleconference software or connect to the meeting in your internet browser. If you are using your browser, make sure you are using a current and up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers, including Internet Explorer.
2. You will be asked to enter an email address and a name, followed by an email with instructions on how to connect to the meeting. Your email address will not be disclosed to the public. If you wish to make an oral public comment but do not wish to provide your name, you may enter "Cupertino Resident" or similar designation.
3. When the Mayor calls for the item on which you wish to speak, click on "raise hand." Speakers will be notified shortly before they are called to speak.
4. When called, please limit your remarks to the time allotted and the specific agenda topic.

In compliance with the Americans with Disabilities Act (ADA), anyone who is planning to attend this teleconference City Council meeting who is visually or hearing impaired or has any disability that needs special assistance should call the City Clerk's Office at 408-777-3223, at least 6 hours in advance of the Council meeting to arrange for assistance. In addition, upon request, in advance, by a person with a disability, City Council meeting agendas and writings distributed for the meeting that are public records will be made available in the appropriate alternative format.

NOTICE AND CALL FOR A SPECIAL MEETING OF THE CUPERTINO CITY COUNCIL

NOTICE IS HEREBY GIVEN that a special meeting of the Cupertino City Council is hereby called for Friday, June 05, 2020, commencing at 4:30 p.m. for a Closed Session and an Open Session at 5:45 p.m. In accordance with Governor Newsom's Executive Order No-29-20, this will be a teleconference meeting without a physical location. Said special meeting shall be for the purpose of conducting business on the subject matters listed below under the heading, "Special Meeting."

SPECIAL MEETING

ROLL CALL - 4:30 PM

CLOSED SESSION

1. Subject: Public Employee Performance Evaluation (Gov't Code Section 54957). Title: City Attorney.

RECESS

ROLL CALL - 5:45 PM

OPEN SESSION

ORAL COMMUNICATIONS

This portion of the meeting is reserved for persons wishing to address the Council on any matter within the jurisdiction of the Council and not on the agenda. The total time for Oral Communications will ordinarily be limited to one hour. Individual speakers are limited to three (3) minutes. As necessary, the Chair may further limit the time allowed to individual speakers, or reschedule remaining comments to the end of the meeting on a first come first heard basis, with priority given to students. In most cases, State law will prohibit the Council from discussing or making any decisions with respect to a matter not listed on the agenda.

ORDINANCES AND ACTION ITEMS

2. Subject: Adopt Resolution Affirming the City's Commitment to Stand in Solidarity with the Black Community.
Recommended Action: Adopt Resolution No. 20-071 Affirming the City's Commitment to Stand in Solidarity with the Black Community.
[Staff Report](#)
[A - Draft Resolution](#)
3. Subject: Receive City Manager's Status Report on Planned Protest Event in Cupertino.
Recommended Action: Receive City Manager's Status Report on Planned Protest Event in Cupertino.
4. Subject: An Urgency Ordinance of the City Council of the City of Cupertino authorizing the outdoor operations of qualifying establishments (restaurants, wineries, breweries, and bars) pursuant to a Special Temporary Outdoor Dining Permit

Recommended Action: That the City Council:

- 1) Find that the proposed action is exempt from CEQA; and
- 2) Conduct the first and only reading and enact Ordinance No. 20-2207: "An Urgency Ordinance of the City Council of the City of Cupertino authorizing the outdoor operations of qualifying establishments (restaurants, wineries, breweries, and bars) pursuant to a special temporary outdoor dining permit."

[Staff Report](#)

[A – Draft Urgency Ordinance](#)

[B - Draft Special Temporary Outdoor Dining Permit application](#)

[C - Appendix C-1: Additional Businesses Allowed to Operate of The County Shelter-in-Place Order](#)

[D - California Department of Health COVID-19 Industry Guidance: Dine-In Restaurants.](#)

ADJOURNMENT

The City of Cupertino has adopted the provisions of Code of Civil Procedure §1094.6; litigation challenging a final decision of the City Council must be brought within 90 days after a decision is announced unless a shorter time is required by State or Federal law.

Prior to seeking judicial review of any adjudicatory (quasi-judicial) decision, interested persons must file a petition for reconsideration within ten calendar days of the date the City Clerk mails notice of the City's decision. Reconsideration petitions must comply with the requirements of Cupertino Municipal Code §2.08.096. Contact the City Clerk's office for more information or go to <http://www.cupertino.org/cityclerk> for a reconsideration petition form.

In compliance with the Americans with Disabilities Act (ADA), anyone who is planning to attend this teleconference City Council meeting who is visually or hearing impaired or has any disability that needs special assistance should call the City Clerk's Office at 408-777-3223, at least 6 hours in advance of the Council meeting to arrange for assistance. In addition, upon request, in advance, by a person with a disability, City Council meeting agendas and writings distributed for the meeting that are public records will be made available in the appropriate alternative format.

Any writings or documents provided to a majority of the Cupertino City Council after publication of the packet will be made available for public inspection in the City Clerk's Office located at City Hall, 10300 Torre Avenue, during normal business hours and in Council packet archives linked from the agenda/minutes page on the Cupertino web site.

IMPORTANT NOTICE: *Please be advised that pursuant to Cupertino Municipal Code 2.08.100 written communications sent to the Cupertino City Council, Commissioners or City staff concerning a matter on the agenda are included as supplemental material to the agenda item. These written communications are accessible to the public through the City's website and kept in packet archives. You are hereby admonished not to include any personal or private information in written communications to the City that you do not wish to make public; doing so shall constitute a waiver of any privacy rights*

you may have on the information provided to the City.



CITY OF CUPERTINO

Legislation Text

File #: 20-7614, **Version:** 1

Subject: Public Employee Performance Evaluation (Gov't Code Section 54957). Title: City Attorney.



CITY OF CUPERTINO

Legislation Text

File #: 20-7617, **Version:** 1

Subject: Adopt Resolution Affirming the City's Commitment to Stand in Solidarity with the Black Community.

Adopt Resolution No. 20-071 Affirming the City's Commitment to Stand in Solidarity with the Black Community.



CITY MANAGER'S OFFICE

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: June 5, 2020

Subject

Adopt Resolution Affirming the City's Commitment to Stand in Solidarity with the Black Community

Recommended Action

Adopt Resolution Affirming the City's Commitment to Stand in Solidarity with the Black Community

Discussion

At the June 2, 2020 Council meeting, councilmembers delivered statements in response to the death of George Floyd on May 25, 2020, in Minneapolis, Minnesota. The Council felt that the City urgently needed to issue a resolution affirming the City's commitment to stand in solidarity with the black community. The attached resolution was drafted largely from councilmember comments delivered on June 2. It is recommended that Council adopt the proposed resolution.

Sustainability Impact

No sustainability impacts.

Fiscal Impact

No fiscal impacts.

Prepared by: Katy Nomura, Assistant to the City Manager

Approved by: Dianne Thompson, Assistant City Manager

Attachments:

A – Draft Resolution Affirming the City's Commitment to Stand in Solidarity with the Black Community

RESOLUTION NO. 20-_____

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL
AFFIRMING THE CITY'S COMMITMENT TO STAND IN SOLIDARITY
WITH THE BLACK COMMUNITY**

WHEREAS, our country is mourning the senseless killing of George Floyd that occurred in Minneapolis on May 25, 2020. The actions and inactions of the police officers involved were deplorable; and

WHEREAS, the most basic form of injustice and inequity occurs when a group of people feels their safety is placed into jeopardy by the very people entrusted with ensuring their safety; and

WHEREAS, police brutality and racism against the black community has been persistent in both our past and our present. Systemic injustices, racism, and dehumanization are deeply rooted in our society; and

WHEREAS, it was unquestionably unfair and unacceptable when the lives of George Floyd, Ahmaud Arbery, Breonna Taylor, Freddie Gray, Walter Scott, Tamir Rice, Michael Brown, Oscar Grant, and many others were taken as a result of discrimination and inequity. These lives mattered and black lives matter; and

WHEREAS, the unrest regarding racial injustice, particularly towards the black community, has been building for decades. Thoughtless violence by our own government only serves to incite more violence; and

WHEREAS, Cupertino is blessed to be a multiracial community, and we decided long ago that mutual understanding and respect develops a much healthier, safer, and caring community; and

WHEREAS, it is important for the community as a whole to stand in solidarity with black communities across the country.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby affirm its commitment to stand in solidarity with the black community and resolves as follows:

The City of Cupertino condemns racial inequity in general and violence against the black community by law enforcement in particular; and

Resolution No. _____

Page 2

The City of Cupertino does not tolerate discrimination, racial injustice, or police brutality; and

The City of Cupertino demands that black lives matter; and

The City of Cupertino will oppose any attempts to undermine the safety, security, and rights of members of our community and will work proactively to ensure the rights and privileges of everyone in the City – regardless of race; and

The City of Cupertino will promote safety, a sense of security, and equal protection of constitutional and human rights, leading by example through equitable treatment of all by City officials and departments; and

The City of Cupertino encourages the community to stand together through peaceful exchange and discourse to enact change and move forward towards a future with more equity and inclusion in Cupertino, California, and our country.

PASSED AND ADOPTED at a special meeting of the City Council of the City of Cupertino this 5th day of June, 2020, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

<div>SIGNED:</div> <div>_____</div> <div>Steven Scharf, Mayor City of Cupertino</div>	<div>_____</div> <div>Date</div>
<div>ATTEST:</div> <div>_____</div> <div>Kirsten Squarcia, City Clerk</div>	<div>_____</div> <div>Date</div>



CITY OF CUPERTINO

Legislation Text

File #: 20-7618, **Version:** 1

Subject: Receive City Manager's Status Report on Planned Protest Event in Cupertino.

Receive City Manager's Status Report on Planned Protest Event in Cupertino.



CITY OF CUPERTINO

Legislation Text

File #: 20-7600, **Version:** 1

Subject: An Urgency Ordinance of the City Council of the City of Cupertino authorizing the outdoor operations of qualifying establishments (restaurants, wineries, breweries, and bars) pursuant to a Special Temporary Outdoor Dining Permit

That the City Council:

- 1) Find that the proposed action is exempt from CEQA; and
- 2) Conduct the first and only reading and enact Ordinance No. 20-2207: "An Urgency Ordinance of the City Council of the City of Cupertino authorizing the outdoor operations of qualifying establishments (restaurants, wineries, breweries, and bars) pursuant to a special temporary outdoor dining permit."



COMMUNITY DEVELOPMENT DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA
95014-3255 TELEPHONE: (408) 777-3308 • FAX: (408) 777-3333
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting Date: June 5, 2020

Subject

An Urgency Ordinance authorizing the outdoor operations of qualifying establishments (restaurants, wineries, breweries, and bars) pursuant to a Special Temporary Outdoor Dining Permit.

Recommended Action

That the City Council:

1. Find that the proposed actions are exempt from CEQA; and,
2. Enact Urgency Ordinance No. 20-XXX – “An urgency ordinance of the City Council of the City of Cupertino authorizing the outdoor operations of qualifying establishments (restaurants, wineries, breweries, and bars) pursuant to a special temporary outdoor dining permit.”

Discussion

There have been several local, regional and state orders regarding Sheltering in Place in response to the COVID-19 pandemic.

- March 11, 2020: Cupertino City Manager declared a local emergency related to COVID-19, which was ratified by the City Council on March 17, 2020.
- March 16, 2020: Santa Clara County issued a Shelter-in-Place Order including limitations on non-essential work and operations, including prohibitions on most residential and almost all commercial construction.
- March 19, 2020: Governor Newsom issued a statewide Shelter-in-Place Order directing all California residents to stay home until further notice, with limited exceptions, to stop the spread of COVID-19.
- March 31, 2020: Santa Clara County issued an updated Shelter-in-Place Order effective from April 1, 2020 through May 3, 2020.
- April 29, 2020: Santa Clara County issued an updated Shelter-in-Place Order effective from May 3, 2020 through May 31, 2020.
- May 4, 2020: Governor Newsom announced that the State will move to a "Stage 2" modification of the Executive Order, allowing for businesses identified as having a lower risk of COVID-19 transmission to reopen in accordance with State guidelines that were issued on May 7, 2020.

Restaurants, wineries, breweries, or bars are not authorized to serve food or beverages on site until the later phase of Stage 2. Currently, only counties that have a local variance attestation approved may advance to the later phase of Stage 2. Santa Clara County on June 5 will allow outdoor dining. The proposed Ordinance establishes a permit framework for qualifying establishments to operate in conformance with the updated County Shelter-in-Place Order. The County has released the following guidelines (Refer to Attachment C *Appendix C-1: Additional Businesses Allowed to Operate* of The County Shelter-in-Place Order):

- Outdoor seating arrangements shall limit the number of patrons at a single table to no more than six (6) individuals, all of whom must be from the same household or living unit. Members of separate households or living units are not allowed to dine at the same table.
- All tables must be separated to ensure that the six-foot minimum social distance can be easily maintained between all members of separate households or living units at all times. For clarity, patrons who are members of the same household or living unit and seated together at a table do not need to be six feet apart.
- Alcohol may be sold to patrons in conjunction with a meal, but it may not be sold independently.
- Bar areas must remain closed to customers.
- Entertainment events are not allowed at this time.
- Outdoor dining, placement of outdoor seating arrangements, and food service must be in compliance with local laws, regulations, and permitting requirements.
- Facilities that open for outdoor dining must offer curbside pickup, takeaway, and/or delivery service alternatives.

Further, any qualifying business would need to operate in compliance with the State guidelines. Please refer to Attachment D for the California Department of Health's *COVID-19 Industry Guidance: Dine-In Restaurants*. To limit the spread of COVID-19, the Guidance allows restaurants, wineries, breweries, or bars that serve food and beverages on site to provide service at a reduced capacity in compliance with State and County guidelines. To allow Cupertino's dining establishments to operate safely, a Special Temporary Outdoor Dining Permit program would allow qualifying establishments to add outdoor seating.

Special Temporary Outdoor Dining Permit: The Cupertino Municipal Code ("CMC") 19.60.050, Land Use Activity, limits outdoor seating outside of a closed atrium or patio without a use permit, if such seating is limited to 20 percent of the indoor seating capacity unless a use permit is applied for. The Ordinance will temporarily suspend this requirement and allow establishments to serve food and beverages outdoors, while ensuring compliance with State and County guidelines. The

Ordinance will require these businesses to apply for and obtain a Special Temporary Outdoor Dining Permit (Attachment B) from the Director of Community Development.

All businesses must be in full compliance with all State and County Orders regarding reopening. Individual businesses must be able to present proof of compliance with the applicable State and County orders upon request by the enforcement official as authorized in the Ordinance. In addition to having a Cupertino Business License, the applicants must comply with the following requirements:

- A. The total amount of seating for each establishment shall be limited to the occupant load permitted under the original certificate of occupancy for the tenant space.
- B. All seating shall be spaced to allow adequate social distancing.
- C. A site/floor plan will be required to verify outdoor seating areas are configured in a manner to:
 - 1. Only be located along the frontage of the qualifying establishment.
 - 2. Provide an accessible path of travel to the new outdoor seating area(s) compliant with the latest adopted edition of the California Building Code.
 - 3. Not encroach into any existing egress and/or accessible paths of travel to allow for comfortable flow of pedestrian traffic.
 - 4. Not be located within six feet of crosswalks or within the required staging area in front of fire hydrants.
- D. If the applicant is requesting to utilize privately owned parking spaces for outdoor seating, the number of spaces used shall not be more than 50% of the maximum occupant load of the establishment. Utilized parking spaces shall be adjacent to the business.
- E. No food preparation shall be allowed outside.
- F. No permanent fixtures are allowed.
 - 1. Temporary barriers, not affixed into the ground or other objects for support, are allowed.
 - 2. Temporary umbrellas not affixed into the ground or other objects are allowed. No signage is allowed on the umbrellas.
- G. Operations must comply with any requirements imposed by the Building Division of the Community Development Department, Santa Clara County Fire Department, Environmental Services Division, and Public Works Department. If conditions proposed by various departments and divisions conflict, the Director of Community Development shall decide which ones to attach to the application.

In addition, a property manager for a shopping center may submit for a permit for the tenants as part of a joint permit, subject to the submission requirements outlined above.

Any restaurant, winery, brewery, or bar that requests to use any portion of the public right-of-way to serve food and drinks may file an application for an Encroachment Permit through the City's Public Works Department.

Permit Limitations: The Special Temporary Outdoor Dining Permit may be approved, conditionally approved or denied by the Director of Community Development. The Director of Community Development may impose any conditions deemed necessary to ensure compliance with the reopening protocol of the State of California and Santa Clara County and to protect the public health and safety of the City. The permit would be non-transferable and only the establishment for which the temporary permit is issued would be permitted to operate.

In order to encourage compliance and to support businesses during the Pandemic, it is proposed that no application fee be required in order to obtain this permit.

Since the Special Temporary Outdoor Dining Permit does not create any property interest, a Special Temporary Outdoor Dining Permit issued pursuant to this ordinance may be revoked at any time and for any reason.

Noticing and Public Comment

Since this is an Urgency Ordinance, no notice is required pursuant to the California Government Code. No public comment has been received with regard to this Ordinance as of the date of this staff report.

Environmental Impact (CEQA)

The proposed Ordinance is not a project as defined by section 15378 of the California Environmental Quality Act (CEQA) Guidelines because it has no potential for resulting in physical change in the environment, either directly or ultimately. If the Ordinance is found to be a project under CEQA, the Ordinance is considered exempt via CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of significant effect on the environment.

Sustainability Impact

No sustainability impacts.

Fiscal Impact

No fiscal impact other than a potential revival in sales tax revenue from an increased operation of food and beverage service businesses.

Prepared by: Gian Martire, Senior Planner

Reviewed by: Piu Ghosh, Planning Manager

Approved for Submission by: Dianne Thompson, City Manager

Attachments:

A – Draft Urgency Ordinance No. 20-XXXX

B - Draft Special Temporary Outdoor Dining Permit application

C - Appendix C-1: Additional Businesses Allowed to Operate of The County
Shelter-in-Place Order

D - California Department of Health *COVID-19 Industry Guidance: Dine-In
Restaurants.*

Draft Ordinance No. 20-XXXX

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
CUPERTINO AUTHORIZING THE OUTDOOR OPERATIONS OF
QUALIFYING ESTABLISHMENTS (RESTAURANTS, WINERIES, BREWERIES,
AND BARS) PURSUANT TO A SPECIAL TEMPORARY OUTDOOR DINING
PERMIT

WHEREAS, on February 3, 2020, and pursuant to Section 101080 of the California Health and Safety Code, the Santa Clara County Health Officer (the “Health Officer”) declared a local health emergency throughout Santa Clara County (the “County”) related to the novel coronavirus (“COVID-19”); and

WHEREAS, on February 3, 2020, and pursuant to Section 8630 of the California Government Code, the Santa Clara County Director of Emergency Services proclaimed a local emergency throughout the County related to COVID-19; and

WHEREAS, on March 4, 2020, California Governor Gavin Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for a broader spread of COVID-19; and

WHEREAS, on March 4, 2020, the County issued updated guidance for workplaces and businesses, stating that employers should take steps to make it more feasible for their employees to work in ways that minimize close contact with large numbers of people, including: 1) suspend nonessential employee travel; and 2) minimize the number of employees working within arm’s length of one another, including minimizing or canceling large in-person meetings and conferences. The County also recommended that persons at higher risk of severe illness should stay home and away from crowded social gatherings of people as much as possible such as parades, conferences, sporting events, and concerts where large numbers of people are within arm’s length of one another; and

WHEREAS, as of March 9, 2020, the County reported that there were 43 cases of persons testing positive for COVID-19 in the County, an increase of 23 in five days. In response, the County, pursuant to its authority under California Health and Safety Codes sections 101040, 101085, and 120175, ordered that private mass gatherings attended by one thousand persons are prohibited until March 31, 2020 (the “First Mass Gathering Order”). This First Mass Gathering Order was based upon evidence of increasing transmission of COVID-19 within the County, scientific evidence regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically, as well as best practices as currently known and available to protect vulnerable members of the public from avoidable risk of serious illness or death resulting from exposure to COVID-19; and

WHEREAS, on March 11, 2020, the City Manager for the City of Cupertino ("City") declared a local emergency throughout the City related to COVID-19; and

WHEREAS, on March 17, 2020, the Council ratified and continued the City Manager's declaration of a local emergency; and

WHEREAS, on March 13, 2020, the County issued an order mandating a countywide moratorium on gatherings of more than 100 persons and a conditional countywide moratorium on gatherings of between 35-100 persons; and

WHEREAS, on March 16, 2020, the County, along with five other Bay Area counties, issued a sweeping "Shelter-in-Place" order (the "March 16 County Shelter-in-Place Order") that included limitations on non-essential work and operations, including but not limited to prohibitions on most residential and almost all commercial construction; and

WHEREAS, on March 19, 2020, Governor Newsom issued a "Shelter-in-Place" order (the "State Shelter-in-Place Executive Order" or "Executive Order") directing all individuals living in the State of California to stay home or at their place of residence, with limited exceptions, to stop the spread of COVID-19 until further notice; and

WHEREAS, on March 31, 2020, the public health officers for the six Bay Area counties, including Santa Clara County, issued an updated "Shelter-in-Place" order effective from April 1, 2020 through May 3, 2020, and on April 29, 2020 issued an updated "Shelter-in-Place" order effective from May 4, 2020 through May 31, 2020 (the "April 29 County Shelter-in-Place Order"); and

WHEREAS, the April 29 County Shelter-in-Place Order continues to require most residents, businesses, and employees to stay at home to limit the transmission of the COVID-19 virus and limits the types of work that may be performed; and

WHEREAS, businesses that serve food and beverages have been prohibited from serving customers on-site, limiting them to take-out only; and

WHEREAS, on May 4, 2020, the Governor announced that the State will move to a "Stage 2" modification of the Executive Order, allowing for businesses identified as having a lower risk of COVID-19 transmission to reopen in accordance with State guidelines; and

WHEREAS, on May 7, 2020, the State issued guidelines that businesses that reopen during the "Stage 2" modification of the Executive Order must follow; and

WHEREAS, during the COVID-19 emergency, businesses that serve food or beverages onsite and indoors increase the risk of COVID-19 transmission, endangering public health and safety; and

WHEREAS, restaurants, wineries, breweries, and bars can serve food or beverages onsite and reduce the risk of COVID-19 transmission by serving food or beverages in compliance with State and County reopening guidelines; and

WHEREAS, food and beverage service establishments constitute an important segment of the Cupertino economy and sales tax base for the City; and

WHEREAS, the City Council finds that the service of food and beverages in an outdoor, well-regulated setting, in accordance with the guidelines from the State during the COVID-19 pandemic and operative County Shelter-in-Place Order and any subsequent orders will allow these businesses to begin operations on-site in a manner that protects the public health and safety;

NOW, THEREFORE, THE CITY COUNCIL OF THE OF CITY OF CUPERTINO DOES ORDAIN AS FOLLOWS:

SECTION 1. For purposes of this ordinance, a qualifying establishment means any restaurant, winery, brewery, or bar that will be allowed to operate in compliance with reopening protocols of the State of California and Santa Clara County.

SECTION 2. Cupertino Municipal Code (“CMC”) Section 19.60.050, Land Use Activity, permits restaurants to provide outdoor seating outside of a closed atrium or patio without a use permit, if such seating is limited to 20 percent of the indoor seating and the restaurant is otherwise in compliance with CMC Chapter 19.124, Parking Regulations. However, in order to allow qualifying establishments serving meals and accompanying beverages onsite to continue to operate in a safe manner during the COVID-19 pandemic, the City Council hereby temporarily suspends this requirement, provided the operator obtains a Special Temporary Outdoor Dining Permit and complies with the following requirements:

- A. The guidelines as published by the California Department of Health (“DoH”) in its *COVID-19 Industry Guidance: Dine-In Restaurants*, as may be amended from time to time or any updated guidelines published by the DoH.
- B. Any guiding document related to requirements from the Santa Clara County Public Health Department.
- C. The total amount of seating for each establishment shall be limited to the occupant load permitted under the original certificate of occupancy for the tenant space.
- D. All seating shall be spaced to allow adequate social distancing.
- E. A floor plan will be required to verify outdoor seating areas are configured in a manner to:
 - 1. Only be located along the frontage of the qualifying establishment.

2. Provide an accessible path of travel to the new outdoor seating area(s) compliant with the latest adopted edition of the California Building Code.
 3. Not encroach into any existing egress and/or accessible paths of travel to allow for comfortable flow of pedestrian traffic.
 4. Not be located within six feet of crosswalks or within the required staging area in front of fire hydrants.
- F. If the applicant is requesting to utilize privately owned parking spaces for outdoor seating, the number of spaces used shall not be more than 50% of the maximum occupant load of the establishment. Utilized parking spaces shall be adjacent to the business.
- G. No food preparation shall be allowed outside.
- H. No permanent fixtures are allowed.
1. Temporary barriers, not affixed into the ground or other objects for support, are allowed if required by Alcoholic Beverage Control ("ABC") for the consumption of alcoholic beverages outside.
 2. Temporary umbrellas not affixed into the ground or other objects are allowed. No signage is allowed on the umbrellas.
- I. No seating or service is allowed within the public right-of-way without first obtaining an encroachment permit from the Department of Public Works.
- J. Operations must comply with any requirements imposed by the Building Division of the Community Development Department, Santa Clara County Fire Department, Environmental Services Division, and Public Works Department. If conditions proposed by various departments/divisions conflict, the Director of Community Development shall decide which ones to attach to the application.
- K. City of Cupertino Business License.
- L. A property manager of a shopping center may apply for a permit for their tenants as a joint application subject to the requirements as outlined above.

SECTION 3. A qualifying establishment may apply for a Special Temporary Outdoor Dining Permit by applying to the Director of Community Development, on a form prepared by the City. The application shall be accompanied by any additional information required by the Director of Community Development to ensure compliance with the adopted requirements. No application fee shall be charged for such application. The permit is non-transferable, and only the qualifying establishment for which the temporary outdoor operations permit was issued shall be permitted to operate under the permit.

The Special Temporary Outdoor Dining Permit may be approved, conditionally approved, or denied at the discretion of the City. Approval of the permit is contingent upon the operation of the qualifying establishment following the reopening protocols of the State of California and Santa Clara County, and a determination that public health and safety of the City will not be threatened. The Director of Community Development may impose any conditions to ensure the above. A Special Temporary Outdoor Dining Permit does not create any property interest, and the Director of Community Development may revoke a Special Temporary Outdoor Dining Permit issued pursuant to this ordinance at any time and for any reason. The Special Temporary Outdoor Dining Permit shall terminate upon the expiration of the Shelter in Place orders.

SECTION 4. The City Council hereby finds, determines, and declares that this urgency ordinance is adopted by at least four-fifths of the City Council pursuant to California Government Code Section 36937 and CMC Section 2.12.050 and is necessary because there is a current and immediate threat to the public health, safety and/or welfare and a need for immediate preservation of the public peace, health, or safety that warrants this urgency measure, which finding is based upon the facts stated in the recitals above, all of which are deemed true and correct, as well any oral and written testimony at the June 2, 2020 City Council meeting.

SECTION 5. The City Council of the City of Cupertino held a duly noticed public meeting on June 5, 2020, and after considering all testimony and written materials provided in connection with that meeting introduced this ordinance and waived the reading thereof.

SECTION 6. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 7. The City Council finds that adoption of this Ordinance is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3), because it can be seen with certainty that temporarily extending certain permit approvals and application processing timelines for a limited period of time will not have a significant effect on the environment.

SECTION 8: *Severability.*

Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other

provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 9: *Effective Date.*

This urgency Ordinance shall take effect immediately upon adoption as provided by Government Code Section 36937 and CMC Section 2.12.050 and shall remain in effect until the County's Shelter-in-Place Order is lifted and the State has entered Stage 4 of reopening, unless the Ordinance is otherwise terminated or extended by the City Council.

SECTION 10: *Certification.*

The City Clerk shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law. Pursuant to Government Code Section 36933, a summary of this Ordinance may be published and posted in lieu of publication and posting of the entire text.

SECTION 11: *Continuity.*

To the extent the provisions of this Ordinance are substantially the same as previous provisions of the Cupertino Municipal Code, these provisions shall be construed as continuations of those provisions and not as amendments of the earlier provisions.

INTRODUCED and **ADOPTED** as an urgency ordinance of the City of Cupertino at a special meeting of the City Council held on June 5, 2020, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED: _____ Steven Scharf, Mayor City of Cupertino	 _____ Date
ATTEST: _____	 _____

Kirsten Squarcia, City Clerk	Date
APPROVED AS TO FORM: _____	_____
Heather Minner, City Attorney	Date



Special Temporary Outdoor Dining Permit

OFFICE OF COMMUNITY DEVELOPMENT

City Hall

10300 Torre Avenue • Cupertino, CA 95014-3255

(408) 777-3308 • Fax (408) 777-3333 • planning@cupertino.org
CUPERTINO

Name of Business: _____

Business Address: _____

Contact Person: _____ Phone/Cell: _____ / _____

Contact E-Mail: _____ Fax: _____

Contact Address (if different than above): _____ City/Zip: _____ / _____

Description of the Business & Request (*Attach separate sheet of paper if necessary*): _____

PROPERTY OWNER APPROVAL

I, _____, the property owner/representative (*attach Power of Attorney*), for the property at which the above named business is located at, hereby provide my approval to allow the business to temporarily expand their outdoor dining activities as indicated in the attached plans.

Property Owner/Representative's Name	Property Owner Address	Email	
Property Owner's Signature	City/State/ZIP	Date Signed	Phone

OPERATOR DECLARATION

- ☐ I acknowledge that I have read all State and County guidelines for the operations of outdoor dining and agree to comply with applicable guidelines/requirements.

Applicant's Signature

Date:

Please attach the following exhibits:

- ☐ Site Plan with accurate, dimensioned, scaled drawings showing the business storefront, storefronts adjacent to the business, and the full sidewalk, street, and/or parking area proposed to be used for outdoor dining
 - ☐ Table and seating layout of the outdoor area as well as the layout of the indoor dining area.
 - ☐ Indicate all temporary lighting, heaters, umbrellas, barriers (must not be affixed or inserted into the ground or attached to any public utilities) proposed.
 - ☐ Indicate Americans with Disability Act (ADA) accessible paths.
- ☐ Copy of City of Cupertino Business License
- ☐ If applicable, copy of Alcohol Beverage Control (ABC) license

Date Received: _____

Planner: _____

Approved by:

FIRE _____

BUILDING _____

ENVIRONMENTAL SERVICES _____

CODE ENFORCEMENT _____

PUBLIC WORKS _____

PLANNING _____

Appendix C-1: Additional Businesses Allowed to Operate

Effective June 5, 2020

General Requirements

The “Additional Businesses” listed below may begin operating, subject to the requirements set forth in the Order and to any additional requirements set forth below or in separate industry-specific guidance by the Health Officer. These businesses were selected to implement a measured expansion of commercial activity based on health-related considerations including the risks of COVID-19 transmission associated with types and modes of business operations, the ability to substantially mitigate transmission risks associated with the operations, and related factors, such as the following:

- **Increase in mobility and volume of activity**—the overall impact the reopening will have on the number of people leaving their homes and traveling to work at or access the business;
- **Contact intensity**—the type (close or distant) and duration (brief or prolonged) of the contact involved in the business;
- **Number of contacts**—the approximate number of people that will be in the setting at the same time;
- **Modification potential**—the degree to which mitigation measures can decrease the risk of transmission.

To mitigate the risk of transmission to the greatest extent possible, each Additional Business must, before resuming operations:

- 1) Prepare and complete a Social Distancing Protocol (SDP) for each of its facilities in the County used by Personnel or the public, using the template provided in Appendix A to the Order.
- 2) The COVID-19 PREPARED Sign and SDP Visitor Information Sheet, which are included with Appendix A, must be printed and posted at or near the entrance of the facility, such as a window, and shall be easily viewable by the public and Personnel from outside the facility.
- 3) The SDP must be distributed to all Personnel working at the facility. Implement all measures in the Social Distancing Protocol prior to opening.
- 4) Print and post all signage required in the SDP. Several sign templates are available on the Public Health Department’s website at:
<https://www.sccgov.org/sites/covid19/Pages/learn-what-to-do-flyers.aspx>.

As used in this Appendix C-1, “Personnel” means the following people who provide goods or services or perform operations associated with the Additional Business in the County: employees; contractors and sub-contractors (such as those who sell goods or perform services onsite or who deliver goods for the business); independent contractors (such as “gig workers” who perform work via the Additional Business’s application or other online interface); vendors who are permitted to sell goods onsite; volunteers; and other individuals who regularly provide services onsite at the request of the Additional Business.

In addition, each Additional Business must comply with Social Distancing Requirements and all relevant state guidance and local directives. Where differences exist between the state guidance and local public health directives related to the COVID-19 pandemic, the most restrictive provision controls.

List of Additional Businesses

For purposes of the Order, Additional Businesses include the following:

(1) Retail

- a. Basis for Addition. Retail typically involves a moderate level of contact for a short duration of time and can proceed with limitations to ensure adequate social distancing and decrease the risk of transmission.
- b. Description and Conditions to Operate. All retail businesses, including wholesale businesses, may operate subject to the following limitations in addition to those required elsewhere in the Order:
 - i. Unless operating as an Essential Business or Outdoor Business or to carry out an Essential Governmental Function, the total number of Personnel present at a facility that qualifies under this category must at any one time be no more than one Personnel per 300 gross square feet of the facility, and no more than one customer per 200 square feet of space open to the public.

(2) Manufacturing

- a. Basis for Addition. Risks associated with this activity can be mitigated through measures that ensure adequate social distancing and limit intermixing between households.
- b. Description and Conditions to Operate. All manufacturing businesses may operate subject to the following limitations in addition to those required elsewhere in the Order:
 - i. Unless operating as an Essential Business or to carry out an Essential Governmental Function, the total number of persons (including Personnel, customers, delivery persons, or other persons) present at a facility that qualifies under this category must at any one time be no more than one person per 300 gross square feet of the facility.

(3) Logistics, Warehousing, Delivery, and Distribution

- a. Basis for Addition. Risks associated with this activity can be mitigated through measures that ensure adequate social distancing and limit intermixing between households.
- b. Description and Conditions to Operate. All logistics, warehousing, delivery, and distribution businesses may operate subject to the following limitations in addition to those required elsewhere in the Order:
 - i. Unless operating as an Essential Business or to carry out an Essential Governmental Function, the total number of persons (including Personnel,

customers, delivery persons, or other persons) present at a facility that qualifies under this category must at any one time be no more than one person per 300 gross square feet of the facility.

- ii. All delivery and distribution activities must take place with the minimum number of persons in a vehicle necessary to safely operate the vehicle and carry out relevant job functions.
- iii. In addition to the requirements set forth in the Order regarding face coverings, Personnel must wear face coverings at all times when inside a vehicle to carry out operations that qualify under this category, except Personnel who are exempted from the face covering requirement pursuant to the Health Officer's Critical Guidance on Face Coverings.

(4) Outdoor Museums, Outdoor Historical Sites, and Publicly Accessible Gardens

- a. Basis for Addition. Visiting outdoor museums, outdoor historical sites, and publicly accessible gardens involves low contact intensity and a low number of contacts so long as proper social distancing is maintained at all times. Interactions and activities that occur outdoors carry a lower risk of transmission than most indoor interactions and activities. Because outdoor recreation is already allowed under the Order, resumption of this activity should result in only a relatively modest increase in mobility and may decrease congestion in other outdoor locations like public parks and beaches.
- b. Description and Conditions. Outdoor museums, outdoor historical sites, and publicly accessible gardens may open subject to the following limitations in addition to those required elsewhere in the Order:
 - i. Members of the public are not allowed to access any indoor facilities associated with outdoor museums, outdoor historical sites, or publicly accessible gardens, except to use restrooms, which must be frequently cleaned. All business and transactions involving members of the public must occur outdoors.
 - ii. Businesses operating under this category must implement measures to ensure that social distancing of at least six feet is maintained at all times other than between members of the same household.

(5) Childcare, Camps, and other Educational or Recreational Institutions for All Children

- a. Basis for Addition. These businesses are critical to children's physical, mental, and social development, and also play a vital role in families' social and economic wellbeing. However, these programs involve a relatively high quantity, intensity, and duration of contacts, and children are often unable to consistently follow social distancing and sanitation requirements that apply to other types of businesses. Risk associated with this category of businesses can be mitigated to some degree with limitations on the size of the groups and on intermixing between groups. In addition, because many of these businesses are already allowed to operate for some children, this addition creates a relatively modest expansion of activity.

- b. Description and Conditions to Operate. All childcare establishments, camps, and other educational or recreational institutions or programs may provide their services to all children subject to the following limitations in addition to those required elsewhere in the Order:
- i. Programs must be carried out in stable groups of 12 or fewer children (“stable” means that the same 12 or fewer children are in the same group each day).
 - ii. Children within a program shall not change from one group to another within that program.
 - iii. If more than one group of children is at one facility, each group shall be in a separate room. Groups shall not mix with each other.
 - iv. Providers or educators shall remain solely with one group of children.
 - v. Children may not move from one program to another more frequently than once every three weeks, or take part in more than one program simultaneously.

(6) Limited Services That Do Not Require Customer Contact

- a. Basis for Addition. The limited services allowed to open involve minimal, low-intensity, short-duration interaction between Personnel and customers. Risks associated with this activity can be mitigated through measures that ensure adequate social distancing and limit intermixing between households.
- b. Description and Conditions to Operate. Limited services that do not require customer contact including but not limited to, pet grooming (including mobile pet grooming), pet daycare, dog walking, repair services (including shoe, watch, jewelry, and other repair services), home cooking services, tailoring, car detailing, residential and janitorial cleaning services, and home maintenance, may operate subject to the following limitations in addition to those required elsewhere in the Order:
- i. If the service is operated out of a business facility that is not an Essential Business or Outdoor Business or used to carry out an Essential Governmental Function, the total number of persons (including Personnel, customers, delivery persons, or other persons) present at the facility must any one time be no more than one person per 300 gross square feet of the facility, and no more than one customer per 200 square feet of space open to the public.
 - ii. To the extent feasible, all interactions and transactions between Personnel and customers must occur outdoors.
 - iii. To the extent feasible, businesses must provide an option to customers that allows them to order and pay for products online or by phone prior to arriving at the facility.
 - iv. To the extent feasible, items serviced must be disinfected prior to being returned to customers.

(7) Outdoor Dining

- a. Basis for Addition. Outdoor dining provides access to freshly prepared meals at a relatively low risk of transmission. Because food service will be limited to outdoor areas, the overall volume of increased activity will be modest. In addition, interactions and activities that occur outdoors carry a lower risk of transmission than most indoor interactions and activities. Risks associated with these operations can be substantially mitigated with conditions to ensure adequate social distancing and limit intermixing between households.
- b. Description and conditions to operate: Restaurants and other food facilities that provide sit-down food service may provide outdoor, sit-down meals, subject to the following limitations in addition to those required elsewhere in the Order:
 - i. Outdoor seating arrangements shall limit the number of patrons at a single table to no more than six (6) individuals, all of whom must be from the same household or living unit. Members of separate households or living units are not allowed to dine at the same table.
 - ii. All tables must be separated to ensure that six-foot minimum social distance can easily be maintained between all members of separate households or living units at all times. For clarity, patrons who are members of the same household or living unit and seated together at a table do not need to be six feet apart.
 - iii. Alcohol may be sold to patrons in conjunction with a meal, but it may not be sold independently.
 - iv. Bar areas must remain closed to customers.
 - v. Entertainment events are not allowed at this time.
 - vi. Outdoor dining, placement of outdoor seating arrangements, and food service must be in compliance with local laws, regulations, and permitting requirements.
 - vii. Facilities that open for outdoor dining must offer curbside pickup, takeaway, and/or delivery service alternatives.

(8) Outdoor Swimming Pools

- a. Basis for Addition. Outdoor swimming pools have few high-touch surfaces and do not require shared equipment. Risks associated with outdoor swimming pools can be substantially mitigated with limitations to ensure adequate social distancing and limit intermixing between households.
- b. Description and Conditions to Operate. Outdoor swimming pools may operate subject to the following limitations in addition to those required elsewhere in the Order:
 - i. Lap swimming must be limited to one swimmer per lane, except that members of the same household or living unit may occupy a single lane.
 - ii. Use of shared swimming areas must be limited to no more than one swimmer per 300 square feet of shared pool space.
 - iii. Except for members of the same household, swimmers shall remain at least six feet apart at all times.
 - iv. At least one person, separate from a lifeguard, shall be on duty at all times to ensure that the social distancing protocol applicable to the facility and all limitations herein are followed.

- v. Locker rooms shall be closed to the public, except for use as a restroom.
- vi. All gathering shall be prohibited outside the pool, such as on pool decks, except that members of a household may observe a child or other person swimming to ensure safety and supervision.

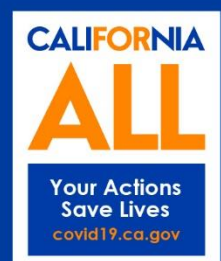
(9) Campgrounds

- a. Basis for Addition. Camping is an outdoor activity and can occur with members of one's own household without generating substantial risk of contact with other households. Risks associated with this activity can be mitigated through measures that ensure adequate social distancing and limit intermixing between households.
- b. Description and Conditions. Campgrounds may operate subject to the following limitations additional to those required elsewhere in the Order:
 - i. Only designated camping spots shall be used.
 - ii. Each camping spot shall be occupied by no more than one household or living unit.
 - iii. If camping spots are immediately adjacent to one another, there shall at least one closed camping spot between each open camping spot to maintain adequate distance between households or living units.
 - iv. Yurts, dorms, cabins, "glamping" facilities, and other permanent facilities may not be used, except for restrooms, food lockers, dishwashing stations, and drinking water stations, which must be frequently sanitized.
 - v. To the extent feasible, reservations shall be made by phone or online prior to arrival.

COVID-19 INDUSTRY GUIDANCE: Dine-In Restaurants

May 12, 2020

covid19.ca.gov



OVERVIEW

On March 19, 2020, the State Public Health Officer and Director of the California Department of Public Health issued an order requiring most Californians to stay at home to disrupt the spread of COVID-19 among the population.

The impact of COVID-19 on the health of Californians is not yet fully known. Reported illness ranges from very mild (some people have no symptoms) to severe illness that may result in death. Certain groups, including people aged 65 or older and those with serious underlying medical conditions, such as heart or lung disease or diabetes, are at higher risk of hospitalization and serious complications. Transmission is most likely when people are in close contact with an infected person, even if that person does not have any symptoms or has not yet developed symptoms.

Precise information about the number and rates of COVID-19 by industry or occupational groups, including among critical infrastructure workers, is not available at this time. There have been multiple outbreaks in a range of workplaces, indicating that workers are at risk of acquiring or transmitting COVID-19 infection. Examples of these workplaces include long-term care facilities, prisons, food production, warehouses, meat processing plants, and grocery stores.

As stay-at-home orders are modified, it is essential that all possible steps be taken to ensure the safety of workers and the public.

Key prevention practices include:

- ✓ physical distancing to the maximum extent possible,
- ✓ use of face coverings by employees (where respiratory protection is not required) and customers/clients,
- ✓ frequent handwashing and regular cleaning and disinfection,
- ✓ training employees on these and other elements of the COVID-19 prevention plan.

In addition, it will be critical to have in place appropriate processes to identify new cases of illness in workplaces and, when they are identified, to intervene quickly and work with public health authorities to halt the spread of the virus.

PURPOSE

This document provides guidance for dine-in restaurants, brewpubs, craft distilleries, breweries, bars, pubs, and wineries to support a safe, clean environment for workers and customers. The guidance is not intended to revoke or repeal any employee rights, either statutory, regulatory or collectively bargained, and is not exhaustive, as it does not include county health orders, nor is it a substitute for any existing safety and health-related regulatory requirements such as those of Cal/OSHA.¹ Stay current on changes to public health guidance and state/local orders as the COVID-19 situation continues. Cal/OSHA has more comprehensive guidance on their [Cal/OSHA Interim General Guidelines on Protecting Workers from COVID-19 webpage](#). The U.S. Food and Drug Administration has [guidance for restaurants](#) and the CDC has additional requirements in their [guidance](#) for businesses and employers.

- Brewpubs, breweries, bars, pubs, craft distilleries, and wineries should remain closed until those establishments are allowed to resume modified or full operation **unless they are offering sit-down, dine-in meals. Alcohol can only be sold in the same transaction as a meal.**
- Dine-in restaurants, brewpubs, breweries, bars, pubs, craft distilleries, and wineries that provide sit-down meals should follow the restaurant guidance below and should continue to **encourage takeout and delivery service whenever possible.**
- Brewpubs, breweries, bars, pubs, craft distilleries, and wineries that do not provide sit-down meals themselves, but can contract with another vendor to do so, can serve dine-in meals provided both businesses follow the guidance below and alcohol is only sold in the same transaction as a meal.
- Venues that are currently authorized to provide off sale beer, wine, and spirits to be consumed off premises and do not offer sit-down, dine-in meals should follow the [guidance for retail operations](#) and offer curbside sales only, until local and/or statewide rules allow additional retail activity.
- Producers of beer, wine, and spirits should follow the [guidance for manufacturing operations](#).
- This guidance is not intended for concert, performance, or entertainment venues. Those types of establishments should remain closed until they are allowed to resume modified or full operation through a specific reopening order or guidance. Establishments that serve full meals must discontinue this type of entertainment until these types of activities are allowed to resume modified or full operation.



Workplace Specific Plan

- Establish a written, worksite-specific COVID-19 prevention plan at every location, perform a comprehensive risk assessment of all work areas, and designate a person at each establishment to implement the plan.
- Identify contact information for the local health department where the restaurant is located for communicating information about COVID-19 outbreaks among employees or customers.
- Train and communicate with employees and employee representatives on the plan.
- Regularly evaluate the establishment for compliance with the plan and document and correct deficiencies identified.
- Investigate any COVID-19 illness and determine if any work-related factors could have contributed to risk of infection. Update the plan as needed to prevent further cases.
- Identify close contacts (within six feet for 15 minutes or more) of an infected employee and take steps to isolate COVID-19 positive employee(s) and close contacts.
- Adhere to the guidelines below. Failure to do so could result in workplace illnesses that may cause operations to be temporarily closed or limited.



Topics for Employee Training

- Information on [COVID-19](#), how to prevent it from spreading, and which underlying health conditions may make individuals more susceptible to contracting the virus.
- Self-screening at home, including temperature and/or symptom checks using [CDC guidelines](#).
- The importance of not coming to work if employees have a frequent cough, fever, difficulty breathing, chills, muscle pain, headache, sore throat, recent loss of taste or smell, or if they or someone they live with have been diagnosed with COVID-19.
- To seek medical attention if their symptoms become severe, including persistent pain or pressure in the chest, confusion, or bluish lips or face. Updates and further details are available on [CDC's webpage](#).

- The importance of frequent handwashing with soap and water, including scrubbing with soap for 20 seconds (or using hand sanitizer with at least 60% ethanol or 70% isopropanol when employees cannot get to a sink or handwashing station, per [CDC guidelines](#)).
- The importance of physical distancing, both at work and off work time (see Physical Distancing section below).
- Proper use of face coverings, including:
 - Face coverings do not protect the wearer and are not personal protective equipment (PPE).
 - Face coverings can help protect people near the wearer, but do not replace the need for physical distancing and frequent handwashing.
 - Employees should wash or sanitize hands before and after using or adjusting face coverings.
 - Avoid touching the eyes, nose, and mouth.
 - Face coverings should be washed after each shift.
- Information on employer or government-sponsored leave benefits the employee may be entitled to receive that would make it financially easier to stay at home. See additional information on [government programs supporting sick leave and worker's compensation for COVID-19](#), including employee's sick leave rights under the [Families First Coronavirus Response Act](#) and the Governor's [Executive Order N-51-20](#), and employee's rights to workers' compensation benefits and presumption of the work-relatedness of COVID-19 pursuant to the Governor's [Executive order N-62-20](#).



Individual Control Measures and Screening

- Provide temperature and/or symptom screenings for all workers at the beginning of their shift and any vendors, contractors, or other workers entering the establishment. Make sure the temperature/symptom screener avoids close contact with workers to the extent possible. Both screeners and employees should wear face coverings for the screening.
- If requiring self-screening at home, which is an appropriate alternative to providing it at the establishment, ensure that screening was performed prior to the worker leaving the home for their shift and follows [CDC guidelines](#), as described in the Topics for Employee Training section above.

- Encourage workers who are sick or exhibiting symptoms of COVID-19 to stay home.
- Employers should provide and ensure workers use all required protective equipment, including face coverings and gloves where necessary.
- Employers should consider where disposable glove use may be helpful to supplement frequent handwashing or use of hand sanitizer; examples are for workers who are screening others for symptoms or handling commonly touched items. Workers should wear gloves when handling items contaminated by body fluids.
- Face coverings are strongly recommended when employees are in the vicinity of others. Workers should have face coverings available and wear them when at work, in offices, or in a vehicle during work-related travel with others. Face coverings must not be shared.
- Establishments must take reasonable measures, including posting signage in strategic and highly-visible locations, to remind the public that they should use face coverings and practice physical distancing while waiting for service and take-out.
- Servers, bussers, and other workers moving items used by customers (dirty cups, plates, napkins, etc.) or handling trash bags should use disposable gloves (and wash hands before putting them on and after removing them) and provide aprons and change frequently.
- Dishwashers should use equipment to protect the eyes, nose, and mouth from contaminant splash using a combination of face coverings, protective glasses, and/or face shields. Dishwashers must be provided impermeable aprons and change frequently. Reusable protective equipment such as shields and glasses should be properly disinfected between uses.



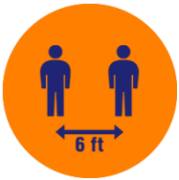
Cleaning and Disinfecting Protocols

- Perform thorough cleaning in high traffic areas, such as customer waiting areas and lobbies, break rooms, lunch areas and areas of ingress and egress including host stands, entry ways, stairways, stairwells, escalators, handrails, and elevator controls. Frequently disinfect commonly used surfaces including doors, door handles, crash bars, light switches, waiting area chairs, credit card terminals, ATM PIN pads, receipt trays, bus tubs, serving trays, water pitcher handles, phones, toilets, and handwashing facilities.

- Frequently clean items touched by patrons, especially those that might attract contact from children including candy and toy vending machines, decorative fish tanks, display cases, decorative fountains, etc.
- Clean touchable surfaces between shifts or between users, whichever is more frequent, including but not limited to working surfaces, phones, registers, touchpads/touchscreens, tablets, timeclocks, appliances, kitchen and bar utensils and implements, oven doors, grill and range knobs, carts and trolleys, keys, etc.
- Avoid sharing audio equipment, phones, tablets, laptops, desks, pens, and other work supplies wherever possible. Never share PPE.
- Discontinue shared use of audio headsets and other equipment between employees unless the equipment can be properly disinfected after use. Consult equipment manufacturers to determine appropriate disinfection steps, particularly for soft, porous surfaces such as foam earmuffs.
- Provide time for workers to implement cleaning practices during their shift. Cleaning assignments should be assigned during working hours as part of the employees' job duties.
- Procure options for third-party cleaning companies to assist with the increased cleaning demand, as needed.
- Equip spaces such as dining rooms, bar areas, host stands, and kitchens with proper sanitation products, including hand sanitizer and sanitizing wipes to all staff directly assisting customers.
- Ensure that sanitary facilities stay operational and stocked at all times and provide additional soap, paper towels, and hand sanitizer when needed.
- When choosing cleaning chemicals, employers should use products approved for use against COVID-19 on the [Environmental Protection Agency \(EPA\)-approved](#) list and follow product instructions. Use disinfectants labeled to be effective against emerging viral pathogens, diluted household bleach solutions (5 tablespoons per gallon of water), or alcohol solutions with at least 70% alcohol that are appropriate for the surface. Provide employees training on manufacturer's directions and Cal/OSHA requirements for safe use. Workers using cleaners or disinfectants should wear gloves as required by the product instructions.
- Restaurants should increase fresh air circulation by opening windows or doors, if possible to do so.
- Consider installing portable high-efficiency air cleaners, upgrading the building's air filters to the highest efficiency possible, and making other modifications to increase the quantity of outside air and ventilation in all working areas.

- Provide disposable menus to guests and make menus available digitally so that customers can view on a personal electronic device, if possible. If disposable menus cannot be provided, properly disinfect menus before and after customer use. Consider options for customers to order ahead of time.
- Discontinue pre-setting tables with napkins, cutlery, glassware, food ware, etc. These should be supplied individually to customers as needed. Do not leave card stands, flyers, napkin holders, or other items on tables.
- Suspend use of shared food items such as condiment bottles, salt and pepper shakers, etc. and provide these foods in single serve containers, if possible. Where this is not possible, shared items such as condiment bottles, shakers, etc., should be supplied as needed to customers and disinfected after each use.
- Pre-roll utensils in napkins prior to use by customers. Employees must wash hands before pre-rolling utensils in napkins. The pre-roll should then be stored in a clean container. After customers are seated, the pre-roll should be put on the table by an employee who recently washed their hands.
- Reusable customer items including utensils, food ware, breadbaskets, etc., must be properly washed, rinsed, and sanitized. Cleaned flatware, stemware, dishware, etc., must be properly stored away from customers and personnel until ready for use. Use disposable items if proper cleaning of reusable items is infeasible.
- Takeout containers must be filled by customers and available only upon request.
- Dirty linens used at dining tables such as tablecloths and napkins should be removed after each customer use and transported from dining areas in sealed bags. Employees should wear gloves when handling dirty linens.
- Thoroughly clean each customer dining location after every use. This will include disinfecting tables, chairs, booster seats, highchairs, booths, etc. and allowing adequate time for proper disinfection, following product instructions. Many EPA-approved disinfectants require minimal contact time (seconds to one minute) against human coronavirus.
- Close areas where customers may congregate or touch food or food ware items that other guests may use. Provide these items to guests individually and discard or clean and disinfect after each use, as appropriate. This includes but is not limited to:
 - Self-service areas with condiment caddies, utensil caddies, napkins, lids, straws, water pitchers, to-go containers, etc.

- Self-service machines including ice, soda, frozen yogurt dispensers, etc.
 - Self-service food areas such as buffets, salsa bars, salad bars, etc.
- Discontinue tableside food preparation and presentation such as food item selection carts and conveyor belts, guacamole preparation, etc.
- Do not leave out after-meal mints, candies, snacks, or toothpicks for customers. Offer them with the check or provide only on request.
- Install hand sanitizer dispensers, touchless if possible, at guest and employee entrances and contact areas such as driveways, reception areas, in dining rooms, near elevator landings, etc.
- Discontinue use of shared entertainment items such as board games, pool tables, arcade games, vending machines, etc. Close game and entertainment areas where customers may share items such as bowling alleys, etc.
- Continue to follow existing codes regarding requirements for sanitizing (rather than disinfecting) food contact surfaces.



Physical Distancing Guidelines

- Prioritize outdoor seating and curbside pickup to minimize cross flow of customers in enclosed environments. Restaurants can expand their outdoor seating, and alcohol offerings in those areas, if they comply with local laws and regulations.
- Provide takeout, delivery, and drive through options for customers when possible.
- Encourage reservations to allow for time to disinfect restaurant areas and provide guidance via digital platforms if possible to customers for physical distancing while at the restaurant.
- Consider allowing dine-in customers to order ahead of time to limit the amount of time spent in the establishment.
- Ask customers to wait in their cars or away from the establishment while waiting to be seated. If possible, alert patrons through their mobile phones when their table is ready to avoid touching and use of “buzzers.”
- Implement measures to ensure physical distancing of at least six feet between workers and customers. This can include use of physical partitions or visual cues (e.g., floor markings or signs to indicate to where employees and/or guests should stand).

- Install physical barriers or partitions at cash registers, bars, host stands, and other areas where maintaining physical distance of six feet is difficult.
- Any area where guests or employees queue should also be clearly marked for appropriate physical distancing. This includes check-stands and terminals, deli counters and lines, restrooms, elevator lobbies, host stands and waiting areas, valet drop off and pickup, and any other area where customers congregate.
- Physical distancing protocols should be used in any office areas, kitchens, pantries, walk-in freezers, or other high-density, high-traffic employee areas. Face coverings are required where employees cannot maintain physical distancing including in kitchens, storage areas, etc.
- Employee pre-shift meetings and trainings should be conducted virtually or in areas that allow for appropriate physical distancing between employees. Food, beverages, food ware, etc., should not be shared.
- Stagger employee breaks, in compliance with wage and hour regulations, to maintain physical distancing protocols.
- Consider offering workers who request modified duties options that minimize their contact with customers and other employees (e.g., managing inventory rather than working as a cashier or managing administrative needs through telework).
- Reconfigure office spaces, lobbies, beverage bars, kitchens and workstations, host stand areas, and other spaces wherever possible to allow for at least six feet of distance between people dining, working, and passing through areas for entry and exit.
- Remove tables and chairs from dining areas so that six feet of physical distance can be maintained for customers and employees. If tables, chairs, booths, etc., cannot be moved, use visual cues to show that they are not available for use or install Plexiglas or other types of impermeable physical barriers to minimize exposure between customers.
- Bar areas should remain closed to customers.
- Discontinue seating of customers where customers cannot maintain six feet of distance from employee work and food and drink preparation areas.
- Adjust maximum occupancy rules inside the establishment based on its size to limit the number of people inside and/or use impermeable barriers between service tables to protect customers from each other and employees. For outdoor seating, maintain physical distancing standards outlined above.
- Limit the number of patrons at a single table to a household unit or patrons who have asked to be seated together. People in the same

party seated at the same table do not have to be six feet apart. All members of the party must be present before seating and hosts must bring the entire party to the table at one time.

- Limit the number of employees serving individual parties, in compliance with wage and hour regulations.
- Face coverings are strongly encouraged for all employees, however, they are required for any employee (e.g., server, manager, busser, food runner, etc.) who must be within six feet of customers. All restaurant workers should minimize the amount of time spent within six feet of guests.
- Close breakrooms, use barriers, or increase distance between tables/chairs to separate workers and discourage congregating during breaks. Where possible, create outdoor break areas with shade covers and seating that ensures physical distancing.
- Reconfigure kitchens to maintain physical distancing in those areas where practical and if not practical staggers shifts if possible to do work ahead of time.
- Discourage food preparation employees from changing or entering others' work stations during shifts.
- Discourage employees from congregating in high traffic areas such as bathrooms, hallways, bar areas, reservation and credit card terminals, etc.
- Establish directional hallways and passageways for foot traffic, if possible, to eliminate employees from passing by one another.
- Require employees to avoid handshakes and similar greetings that break physical distance.
- Eliminate person-to-person contact for delivery of goods whenever possible. Designate drop-off locations to receive deliveries away from high traffic areas. Maintain physical distance of at least six feet with delivery drivers.
- Guests should enter through doors that are propped open or automated, if possible. Hand sanitizer should be available for guests who must touch door handles.
- Implement peak period queueing procedures, including a host to remind guests to queue with at least six feet of distance between parties outside or in waiting areas.
- Employees should not open the doors of cars or taxis.
- Takeout food items should be made available using contactless pick-up and delivery protocols.

- Avoid touching others' pens and clipboards. If possible, install transfer-aiding materials, such as shelving and bulletin boards, to reduce person-to-person hand-offs.



Considerations for Restaurants

- Display a set of clearly visible rules for customers and restaurant personnel at the restaurant entrance(s) that are to be a condition of entry. The rules could include instructions to use hand sanitizer, maintain physical distance from other customers, avoid unnecessary touching of restaurant surfaces, contact information for the local health department, and changes to restaurant services. Whenever possible, the rules should be available digitally, include pictograms, and included on/with menus.
- Guests and visitors should be screened for symptoms upon arrival, asked to use hand sanitizer, and to bring and wear a face covering when not eating or drinking. Appropriate signage should also be prominently displayed outlining proper face covering usage and current physical distancing practices in use at all entrances and throughout the property.
- Licensed restaurants may sell "to-go" alcoholic beverages, prepared drinks, and pre-mixed cocktails provided they are sold and delivered to customers in conjunction with the sale and delivery of a meal/meals.

¹Additional requirements must be considered for vulnerable populations. Dine-in restaurants, breweries, brewpubs, craft distilleries, and wineries that provide meals must comply with all [Cal/OSHA](#) standards and be prepared to adhere to its guidance as well as guidance from the [Centers for Disease Control and Prevention \(CDC\)](#) and the [California Department of Public Health \(CDPH\)](#). Additionally, employers should be prepared to alter their operations as those guidelines change.

