

CITY OF MOORPARK EXECUTIVE ORDER NO. 2020-05

AN EXECUTIVE ORDER OF THE DIRECTOR OF
DISASTER SERVICES OF THE CITY OF MOORPARK
TO AUTHORIZE RESTAURANTS TO CONDUCT
OUTDOOR DINING WITH ISSUANCE OF A ZONING
CLEARANCE AND TO SUSPEND CONFLICTING
PROVISIONS OF THE MOORPARK ZONING
ORDINANCE

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “coronavirus disease 2019,” abbreviated COVID-19; and

WHEREAS, on March 4, 2020, the Governor of the State of California initially 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 broader spread of COVID-19; and

WHEREAS, on March 12, 2020, Dr. Robert Levin, M.D., the Ventura County Public Health Officer, initially declared a local health emergency within the County of Ventura due to COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

WHEREAS, also on March 13, 2020, the City Manager of the City of Moorpark, acting as its Director of Disaster Services, proclaimed a local emergency within the City of Moorpark on account of the COVID-19 pandemic; and

WHEREAS, on March 16, 2020, the California Department of Public Health issued COVID-19 public health guidance related to self-isolation for older adults and those who have elevated risks, to further strengthen measures to address the state of emergency caused by the COVID-19 pandemic; and

WHEREAS, on March 17, 2020, Dr. Levin issued a public health order to close many types of businesses, including bars and nightclubs that do not serve food, movie theatres, live performance venues, bowling alleys, arcades, gyms, fitness centers, aquatic centers, wineries, breweries, and tap rooms; and

WHEREAS, on March 18, 2020, the City Council of Moorpark adopted a resolution to ratify the Director of Disaster Services’ proclamation of a local emergency within the City of Moorpark; and

WHEREAS, on March 19, 2020, the California Department of Alcoholic Beverage Control (ABC) suspended enforcement of specific legal prohibitions to assist California's alcoholic beverage industry during the COVID-19 pandemic and released a Notice of Regulatory Relief to help licensees with economic challenges brought on by the spread of the virus; and

WHEREAS, on March 20, 2020, the Dr. Levin issued a "Stay Well at Home" order requiring that all persons currently living within Ventura County to stay at their residences and to the extent persons are outside of their places of residency to, at all times as reasonably possible maintain a physical distance of at least six feet from one another. On April 20, 2020, Dr. Levin amended and extended the County's Stay Well at Home order until May 15, 2020; and

WHEREAS, on May 4, 2020, the Governor issued Executive Order N-60-20 declaring that the State would soon be moving to allow lower-risk businesses and spaces to reopen under Stage Two of his plan to reopen the State in four phases, known as the Roadmap to Reopening; and

WHEREAS, Executive Order N-60-20 directs the State Public Health Officer to establish criteria for local health officers to establish and implement public health measures that are less restrictive than measures taken on a statewide basis and to certify such measures; and

WHEREAS, on May 7, 2020, Dr. Levin adopted a new local public health order entitled "Safely Reopening Ventura County" to address the unique needs of Ventura County in response to COVID-19. The Safely Reopening Ventura County order repealed and replaced the April 20 Stay Well At Home order and is currently scheduled to expire on May 31, 2020; and

WHEREAS, consistent with the early stage 2 of the State's Roadmap to Reopening, on May 8, 2020, Ventura County announced that curb-side retail, manufacturing, and logistics businesses could reopen when following social distancing practices. Thereafter, on May 13, 2020, all childcare services, office-based businesses, select outdoor services such as car washes, outdoor museums, and open gallery spaces and other public spaces were permitted to reopen. All businesses authorized to reopen are required to complete risk assessments and implement worksite-specific COVID-19 prevention plans, among other public health measures; and

WHEREAS, on May 15, 2020, ABC released the Fourth Notice of Regulatory Relief allowing for relaxing the ABC regulation for serving alcoholic beverages on outdoor dining areas associated with an existing restaurant; and

WHEREAS, on May 19, 2020, Dr. Levin submitted an attestation form to the State Department of Public Health certifying that Ventura County is ready to prevent the spread of COVID-19 and is therefore capable of moving through Stage 2 of the Roadmap to Reopening; and

WHEREAS, on May 20 and May 22, 2020, Dr. Levin further amended the Safely Reopening Ventura County order to remove restrictions placed on restaurants that had previously limited their operation to pick-up and delivery service. This means that restaurants may now open for dine-in service, provided that such restaurants establish, implement, and enforce site-specific COVID-19 prevention plans, as well as register with the County Public Health Department and attest to their ability to reopen. Restaurants that are authorized to reopen must comply with social distancing requirements outlined in the Safely Reopening Ventura County order, which include maintaining at least a six-foot physical distance from other persons; and

WHEREAS, the City of Moorpark desires to help facilitate business recovery and in order to make dine-in service economically feasible while practicing mandatory social distancing requirements, restaurants may need to utilize additional space to spread out tables and seating arrangements; and

WHEREAS, sidewalks and parking lots adjacent to restaurants offer a relatively safe space to provide dine-in service and such outdoor spaces are currently at reduced capacity due to the COVID-19 pandemic and stay-at-home orders; and

WHEREAS, pursuant to Government Code Section 8634 and Moorpark Municipal Code Section 2.48.060 (C)(1), the Moorpark Director of Disaster Services has the authority to make and issue rules and regulations intended to address the COVID-19 emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council.

NOW, THEREFORE, THE DIRECTOR OF DISASTER SERVICES OF THE CITY OF MOORPARK DOES HEREBY ORDER AS FOLLOWS:

SECTION 1. Outdoor Dining Permitted Upon Issuance of Zoning Clearance. The Community Development Director or her designee is hereby authorized to approve zoning clearances for restaurants or similar establishments engaged primarily in the retail sale of prepared food for on-site or off-site consumption so as to allow a restaurant to provide outdoor dining service within the parking lot, sidewalk, and/or other outdoor space located immediately adjacent to the building in which the restaurant or similar establishment is already located. Tables, chairs, mandatory public health signage, and other equipment reasonably necessary to conduct outdoor dining service may be placed on such parking lots and sidewalks and in such areas as are specified in the site plan approved under the zoning clearance.

SECTION 2. Direction to the Community Development Director.

A. In accordance with Moorpark Municipal Code Section 17.44.030 and this Executive Order, the Community Development Director or her designee shall issue a zoning clearance for outdoor dining service that complies with the following minimum standards and conditions:

i. The outdoor seating is spaced in a matter that ensures compliance with applicable social distancing requirements adopted by the Ventura County Public Health Officer.

ii. All tables, chairs, planters, fencing, barricades or other temporary outdoor fixtures in the locations shown on the proposed site plan will be kept well-maintained, orderly, clean, and free of trash and debris.

iii. All existing and required accessible parking spaces, loading zones, and paths of travel shall be maintained free and available for use, as required by the 2019 California Building Code Division and administered by the City Building Official. A clear pedestrian walkway of no less than 48 inches wide is available, except where an unreasonable hardship exists, than the Building Official may reduce such required width to no less than 36 inches.

iv. Outdoor dining fixtures located in existing parking or driving areas are fenced or barricaded in a manner to ensure the safety to all persons using or entering such areas. Such devices may include highly visible, sturdy or heavy materials such a concrete or water filled "k rails", bollards or heavy planters to separate vehicular and pedestrian traffic.

v. The application does not apply to outdoor entertainment.

vi. At all times when the restaurant is open for business, the sale/service of beer, wine, and liquor is provided only in conjunction with the sale/service of food.

vii. The applicant complies with Chapter 8.32 of the Moorpark Municipal Code, Prohibiting Smoking in Public Places, at all times and shall provide signs consistent with Section 8.32.040 of the Moorpark Municipal Code.

viii. If alcohol will be served, outdoor fencing complies with the requirements of the ABC.

ix. The Police Chief and Community Development Director have the authority to revoke the zoning clearance in their reasonable discretion if the outdoor dining service poses a threat to public health or safety.

x. All exterior areas of the site, including parking lot and sidewalks, have adequate lighting if nighttime dining is proposed.

xi. The outdoor dining service complies with all Ventura County Environmental Health regulations.

xii. The applicant obtains an encroachment from the Public Works Department prior to any use of the sidewalk or other public right-of-way.

xiii. The applicant agrees to comply with the City's standard indemnity requirement for land use entitlements.

xiv. The zoning clearance shall automatically expire six months after its issuance or when the Ventura County Public Health Officer's social distancing requirements allow the subject restaurant to provide indoor seating at full capacity, whichever occurs sooner. The Community Development Director, in her reasonable discretion, may determine that a zoning clearance has expired because indoor seating may be allowed at full capacity.

B. The Community Development Director is hereby directed to expeditiously process applications for zoning clearances that authorize outdoor dining.

SECTION 3. Suspension of Conflicting Provisions of Zoning Ordinance. All provisions of the Moorpark Zoning Ordinance that would preclude a restaurant from providing outdoor dining service in accordance with a duly issued zoning clearance are hereby suspended for the period of time that such zoning clearance remains in effect. Suspended provisions include the minimum number of off-street parking spaces required under Moorpark Municipal Code Section 17.32.020 and the maximum period of time that outdoor service may be provided under Moorpark Municipal Code Section 17.28.130.

SECTION 4. Fee for Outdoor Dining Zoning Clearance. In furtherance of the public purpose associated with promoting social distancing, the permit fee for a zoning clearance that authorizes outdoor dining pursuant to this Executive Order is hereby waived.

SECTION 5. Violations. A violation of this Executive Order shall be punishable as set forth in Government Code Section 8665 and Chapter 1.10 of the Moorpark Municipal Code.

SECTION 6. Term. This Executive Order shall remain in effect until the local emergency declared in response to COVID-19 within the City is concluded. This Executive Order may also be extended or superseded during the period of local emergency by a duly enacted resolution or ordinance of the City Council or by a further Executive Order by the Director of Disaster Services.

SECTION 7. Effective Date. This Executive Order shall be effective immediately as of the date set forth below.

SECTION 8. Severability. The Director of Disaster Services declares that, should any section, subsection, subdivision, sentence, clause, phrase, or portion of this Executive Order for any reason be held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Executive Order. The Director of Disaster Services hereby declares that he would have adopted this Executive Order and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 9. Publication. The City Clerk shall certify to the approval of this Executive Order and shall cause notice of it to be disseminated to the public and be given widespread publicity and notice.

APPROVED and ISSUED this 28th day of May, 2020.



Troy Brown, City Manager/
Director of Disaster Services

ATTEST:


Ky Spangler, City Clerk