

CITY OF MOORPARK EXECUTIVE ORDER NO. 2020-07

AN EXECUTIVE ORDER OF THE DIRECTOR OF
DISASTER SERVICES OF THE CITY OF MOORPARK
TO AUTHORIZE DESIGNATED COMMERCIAL
BUSINESSES TO CONDUCT OUTDOOR OPERATIONS
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 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. In addition, Executive Order N-60-20 directs all residents of the State to obey State public health directives as the State Public Health Officer may provide; and

WHEREAS, pursuant to Executive Order N-60-20, on May 7, 2020, the State Public Health Officer announced that statewide data supported the gradual movement of the entire state into Stage 2 of the Roadmap to Reopening and, in conjunction with the Governor, outlined a process by which individual counties could certify to their ability to move through Stage 2 and open up additional businesses; 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, since that time, the State Public Health Officer reported a statewide increase in the spread of COVID-19. As of July 1, 2020, Ventura County was included in the State Department of Public Health’s County Monitoring List for three consecutive days; and

WHEREAS, due to Ventura County’s placement on the County Monitoring List for three consecutive days, on July 13, 2020, the State Public Health Officer required the closure of indoor operations at a number of business sectors, including (i) gyms and fitness centers; (ii) personal care services; and (iii) hair salons and barbershops; and

WHEREAS, on July 14, 2020, Dr. Levin issued a new public health order to close the businesses outlined in the State Public Health Officer’s order unless they can be modified to operate outside or by pick-up; and

WHEREAS, on July 20, 2020, the State Department of Public Health released guidance on outdoor operations for hair salons, barbershops and businesses offering personal care services such as nail salons, skin care businesses and massage parlors. This excluded businesses offering electrology, tattooing and piercing services; and

WHEREAS, on July 20, 2020, Ventura County released guidance on outdoor operations for businesses and organizations offering physical activities such as yoga studios, dance studios, martial arts studios and other similar businesses. These businesses must follow the Gyms and Fitness Center Guidance; and

WHEREAS, the City of Moorpark desires to help facilitate business operations by making outdoor services more accessible for gyms, fitness centers, personal care services, hair salons and barbershops; and

WHEREAS, sidewalks and parking lots adjacent to such businesses offer a relatively safe space to provide outdoor service and those outdoor spaces are currently at reduced capacity due to the COVID-19 pandemic; 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. Designated Outdoor Commercial Services Permitted Upon Issuance of Zoning Clearance. The Community Development Director or her designee is hereby authorized to approve zoning clearances for (i) gyms and fitness centers; (ii) personal care services (including nail salons, skin care businesses and massage parlors, but not electrology, tattooing and piercing services); and (iii) hair salons and barbershops (“Designated Commercial Businesses”) so as to allow Designated Commercial Businesses to provide outdoor service within the parking lot, sidewalk, and/or other outdoor space located immediately adjacent to the building in which the Designated Commercial Business is already located. Tables, chairs, mandatory public health signage, and other equipment reasonably necessary to conduct outdoor 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 service to a Designated Commercial Business that complies with the following minimum standards and conditions:

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

ii. The outdoor service complies with all state and local public health regulations regulating disease prevention, ventilation, and sanitization requirements.

iii. The outdoor service shall not constitute a nuisance to adjacent properties, adjacent businesses, or adjacent outdoor uses by causing excessive noise, odors, vibration, dust, light, or smoke.

iv. 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.

v. 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, then the Building Official may reduce such required width to no less than 36 inches.

vi. Outdoor 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 as concrete or water filled "k rails", bollards or heavy planters to separate vehicular and pedestrian traffic.

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

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

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

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

xii. The zoning clearance shall automatically expire six months after its issuance or when the Ventura County Public Health Officer's and State Public Health Officer's public health orders allow the subject business to provide indoor service at full capacity, whichever occurs sooner. The Community Development Director, in her reasonable discretion, may determine that a zoning clearance has expired because indoor service may be allowed at full capacity.

B. The Community Development Director is hereby directed to expeditiously process applications for zoning clearances that authorize outdoor service for Designated Commercial Businesses.

SECTION 3. Suspension of Conflicting Provisions of Zoning Ordinance. All provisions of the Moorpark Zoning Ordinance that would preclude a Designated Commercial Business from providing outdoor 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 Service Zoning Clearance. In furtherance of the public purpose associated with promoting social distancing, the permit fee for a zoning clearance that authorizes outdoor service 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 23rd day of July, 2020.



Troy Brown, City Manager
Director of Disaster Services

ATTEST:



Ky Spangler, City Clerk

