

COUNTY OF SAN MATEO

DIRECTOR OF EMERGENCY SERVICES

EMERGENCY REGULATION NO. 1 FOR THE COVID-19 EMERGENCY

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TEMPORARY SUSPENSION OF COUNTY ZONING REGULATIONS AND USE PERMIT REQUIREMENTS, INCLUDING CONDITIONS OF APPROVAL, FOR OUTDOOR DINING ON THE PREMISES OF RESTAURANTS, FOR THE PURPOSE OF PROVIDING TABLE SERVICE IN COMPLIANCE WITH THE SOCIAL DISTANCING AND OTHER REQUIREMENTS OF THE COUNTY HEALTH OFFICER ORDER AND STATE AND LOCAL DIRECTIVES REGARDING REOPENING OF BUSINESSES

Pursuant to California Government Code Section 8634 and San Mateo County Ordinance Code 2.46.060(a)(6), the County of San Mateo Director of Emergency Services (the “Director”) issues the following Emergency Regulation No. 1 for the COVID-19 Emergency Temporarily Suspending County Zoning Regulations and Use Permit Requirements, Including Conditions of Approval, on Outdoor Dining on the Premises of Restaurants for the Purpose of Providing Table Services in Compliance With the Social Distancing and Other Requirements of the County Health Officer Orders and State and Local Directives Regarding Reopening of Businesses:

This Emergency Regulation No. 1 for the COVID-19 Emergency (“Director’s Emergency Regulation No.1”) temporarily suspends use permit requirements, including conditions of approval, and any zoning development standards or regulations that otherwise limit restaurants in the unincorporated area of the County of San Mateo (the “County”) that were previously permitted to provide dine-in food service in providing outdoor table service on the premises of such restaurants.

With this temporary suspension of requirements, the Director’s Emergency Regulation No. 1 will authorize restaurants to provide such table service on the outdoor area of their premises including, but not limited to in setbacks or on adjacent, proximate or on-site private parking areas, notwithstanding any use permit requirements or conditions or zoning regulations to the contrary, subject to social distancing requirements and limitations; any future County restrictions, standards, rules, regulations, or directives regarding outdoor table service and business operations during the Local Emergency; all applicable State laws, rules, and regulations; and all Fire Code, Americans with Disabilities Act (“ADA”) accessibility requirements, food safety requirements, and all other applicable health and safety requirements.

Findings:

This Director’s Emergency Regulation No. 1 is adopted pursuant to the authority set forth in California Government Code Sections 8634 and San Mateo County Ordinance Code Section 2.46.060(a)(6) based upon the following findings:

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

Whereas, on March 10, 2020, the County’s Board of Supervisors (the “Board”) ratified and extended this declaration of local health emergency and on April 7, 2020, the Board further extended this local health emergency, which remains in effect throughout the County; and

Whereas, on March 3, 2020, and pursuant to Section 8630 of the California Government Code and Chapter 2.46 of the San Mateo County Ordinance Code, the Director proclaimed a local emergency throughout San Mateo County related to COVID-19; and

Whereas, on March 10, 2020, the Board ratified and extended the proclamation of a local emergency, and this local emergency remains in effect, and on April 7, 2020, the Board extended the proclamation of local emergency (“Local Emergency”), which remains in effect; and

Whereas, on March 4, 2020, Governor Newsom issued a Proclamation of State of Emergency related to COVID-19 (“State of Emergency”), effective throughout the State of California, which remains in effect; and

Whereas, on March 14, 2020, the Health Officer prohibited all public or private gatherings of 50 or more people and urged the cancelation of all gatherings of 10 or more people in a single confined space; and

Whereas, on March 16, 2020, the Health Officer issued an order that, among other things, directed all individuals currently living within the County to shelter in their place of residence and authorized individuals to leave their residences only for certain essential activities, governmental functions, and business activities (“County Shelter-in-Place Order”); and

Whereas, on March 19, 2020, Governor Newsom issued Executive Order N-33-20, which, imposed a statewide shelter-in-place order requiring individuals to remain in their places of residence except as needed to maintain continuity of operations of critical infrastructure, access necessities such as food, prescriptions and healthcare, or engage in other authorized activities (“Statewide Shelter-in-Place Order”), and the Statewide Shelter-in-Place Order remains in place with certain modifications to authorized activities and business operations; and

Whereas, on March 31, 2020, April 29, 2020, May 15, 2020, May 22, 2020, May 28, 2020, and June 4, 2020, the Health Officer extended the expiration date of the County Shelter-in-Place Order due to evidence of continued significant community transmission of COVID-19 within the County and throughout the Bay Area and modified activities and business operations authorized under the County Shelter-in-Place Order; and

Whereas, Section 8634 of the Government Code provides that “during a local emergency, the governing body of a political subdivision, or officials designated thereby, may promulgate orders and regulations necessary to provide for the protection of life and property,” and that such orders “shall be in writing and shall be given widespread publicity and notice;” and

Whereas, Chapter 2.46.060(a)(6) of the County Ordinance Code provides that, during the Local Emergency and/or State of Emergency, the Director is empowered “[t]o make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations shall be submitted to the Board of Supervisors for confirmation at the earliest practicable time;” and

Whereas, the modified County Shelter-in-Place Order issued June 4, 2020 (the “June 4, 2020 County Shelter-in-Place Order”), a copy of which is **Exhibit “A”** to this Emergency Regulation and incorporated by this reference, provides that, effective June 6, 2020, restaurants and other food facilities that were previously permitted to provide dine-in food service, may provide outdoor sit-down meals, subject to the social distancing requirements and limitations provided in the June 4, 2020 County Shelter-in-Place Order; and

Whereas, the social distancing requirements and limitations provided in the June 4, 2020 County Shelter-in-Place Order are necessary due to evidence of continued significant community transmission of COVID-19 within the County, throughout the Bay Area, and statewide; continued uncertainty regarding the degree of undetected asymptomatic transmission; scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically; evidence that the age, condition, and health of a significant portion of the population of the County places it at risk for serious health complications, including death, from COVID-19; and further evidence that others, including younger and otherwise healthy people, are also at risk for serious outcomes; and

Whereas, despite actions taken to slow the spread of COVID-19, the number of identified cases continues to grow, and, as of June 3, 2020, there have been 2,244 confirmed cases and 84 COVID-related deaths within the County, 14,729 confirmed cases and 452 COVID-related deaths throughout the Bay Area, and 122,238 confirmed cases and 4,444 COVID-19 related deaths Statewide; and

Whereas, since March 2020, as a direct result of the COVID-19 pandemic, over 42 million Americans have filed first time claims for unemployment benefits, resulting in unemployment rates and economic collapse not seen since the depths of the Great Depression; and

Whereas, these abrupt and severe negative economic impacts have affected restaurants in the unincorporated area, which have been forced to close or operate on a limited basis; and

Whereas, the Director finds that, unless immediate steps are taken to allow restaurants in the unincorporated area of the County to provide outdoor table service pursuant to the June 4, 2020 County Shelter-in-Place Order, such restaurants and other food facilities, in addition to the local communities they serve and the County residents they employ, will be irreparably harmed; and

Whereas, the Director further finds that, in order to facilitate the ability of restaurants in the unincorporated area to operate in compliance with the requirements of the June 4, 2020 County Shelter-in-Place Order, it is appropriate to temporarily suspend County use permit requirements, including conditions of approval, and any zoning development standards or regulations as set forth in this Director's Emergency Regulation No. 1 that would otherwise limit restaurants previously permitted to provide dine-in food service to provide outdoor table service, subject to the social distancing requirements and limitations provided in the June 4, 2020 County Shelter-in-Place Order and any subsequent modifications to the County Shelter-in-Place Order; any future County restrictions, standards, rules, regulations, or directives regarding outdoor table service and business operations during the Local Emergency; all applicable State laws, rules, and regulations; and all applicable State laws, rules, and regulations; and all Fire Code, ADA accessibility requirements, food safety requirements, and all other applicable health and safety requirements; and

Whereas, in temporarily suspending County use permit requirements, including conditions of approval, and any zoning development standards or regulations as set forth in this Director's Emergency Regulation No. 1, the Director is taking action pursuant to his authority under Government Code Section 8634 and Chapter 2.46.060 of the County Ordinance Code in order to protect life and property within the unincorporated area of the County during the Local Emergency and State of Emergency.

Jurisdiction:

This Director's Emergency Regulation No. 1 shall apply throughout the unincorporated area of the County.

Effective Date and Termination:

This Director's Emergency Regulation No. 1 shall take effect and be in full force immediately and shall remain in effect until it is modified or revoked by the Director or the Board or superseded by the adoption of amendments to the County Ordinance Code and/or Zoning Regulations by the Board, whichever is earlier. This Director's Emergency Regulation No. 1 will be submitted to the Board for ratification as soon as practicable pursuant to Chapter 2.46.060 of the County Ordinance Code.

ORDERS

Authorization:

This Director's Emergency Regulation No. 1 hereby temporarily suspends use permit requirements, including conditions of approval, and any zoning development standards or regulations, such as, but not limited to setback requirements and onsite parking requirements, that otherwise limit outdoor dining on private property at a restaurant premises, including, but not limited to, in setbacks or in parking lots or other private property adjacent or proximate to such restaurant premises.

Specifically:

- Zoning requirements which would otherwise require a use permit for outdoor dining and any

zoning development standards or regulations that otherwise limit outdoor dining, are temporarily suspended.

- Use permit conditions that would otherwise prohibit outdoor dining are temporarily waived.
- On-site parking requirements are waived to the extent that the restaurant uses such parking areas to provide outdoor table service. To the extent that parking is also made available in these areas, the restaurant must maintain adequate safety barriers between vehicles and tables, patrons and workers.

Requirements:

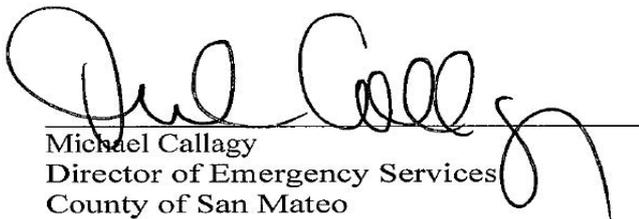
Any restaurant that provides outdoor dining pursuant to this Director’s Emergency Regulation No. 1 shall comply with all social distancing requirements and limitations set forth in the June 4, 2020 County Shelter-in-Place Order and any subsequent modifications to the County Shelter-in-Place Order; any future County restrictions, standards, rules, regulations, or directives regarding outdoor table service and business operations during the Local Emergency; all applicable State laws, rules, and regulations; and all Fire Code, ADA accessibility requirements, food safety requirements, and all other applicable health and safety requirements.

In addition, outdoor food preparation is prohibited. Restaurants shall prepare all food inside the restaurant and shall not prepare food in or near the outdoor areas used for table service.

If served in conjunction with the service of meals, the service of alcoholic beverages along with food in these outdoor dining areas at restaurants shall be allowed to the extent that such service is allowed by the California Department of Alcoholic Beverage Control and in compliance with its current orders, rules, and regulations.

Remaining Provisions of County Ordinance Code and Zoning Regulations Unaffected:

Except as temporarily suspended by this Director’s Emergency Regulation No. 1, the San Mateo County Ordinance Code and Zoning Regulations shall remain unchanged and shall continue in full force and effect.


Michael Callagy
Director of Emergency Services
County of San Mateo

Date: June 5, 2020