

RESOLUTION NO. 20-8854

**A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA
SUSPENDING ENFORCEMENT OF SPECIFIC CITY CODE
REQUIREMENTS RELATED TO PERMITTING FOR OUTDOOR
DINING DURING THE LOCAL EMERGENCY RELATED TO
COVID-19, AND DIRECTING THE CITY MANAGER TO USE HER
AUTHORITY AS DIRECTOR OF EMERGENCY SERVICES
UNDER SCCC § 2.140.060(f)(1) TO MAKE AND ISSUE RULES
AND REGULATIONS ON MATTERS REASONABLY RELATED
TO THE PROTECTION OF LIFE AND PROPERTY AS
AFFECTED BY THE EMERGENCY FOR THE OPERATION OF
OUTDOOR RESTAURANT DINING**

BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, in response to the very serious public health threat posed by the COVID-19 pandemic, on March 11, 2020, , the City Manager of the City of Santa Clara issued a Proclamation of a Local Emergency in the City of Santa Clara, pursuant to her authority as Director of Emergency Services under SCCC § 2.140.060;

WHEREAS, the Santa Clara County Health Officer has issued a series of "Shelter In Place" Orders ("SIPOs"), the most recent of which is dated May 18, 2020, temporarily prohibiting the conduct of non-essential services, including a prohibition on on-site dining at restaurants and other food service establishments;

WHEREAS, the May 18 SIPO also directs all persons within the County of Santa Clara to strictly comply with social distancing requirements, including but not limited to maintaining at least a 6-foot distance from individuals who are not a part of the same household or living unit;

WHEREAS, at such time as the County Health Officer issues an updated SIPO that allows for the resumption of on-site dining, it is anticipated that it will be necessary for such establishments to allow patrons to continue to maintain the strict social distancing requirements between patrons and implement other measures to protect the health and safety of those patrons;

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WHEREAS, the City Manager is authorized to use her authority as Director of Emergency Services under SCCC § 2.140.060(f)(1) to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by the Emergency;

WHEREAS, the City Council has prosecutorial discretion over the requirements of the Santa Clara City Code, and has the ability to direct staff to suspend enforcement of specific provisions on a temporary basis, such as during the local Emergency;

WHEREAS, City Charter Section 400 directs the City Council to exercise all powers necessary and appropriate to protect the general welfare;

WHEREAS, pursuant to this authority, the Council now seeks to direct the City Manager to exercise her authority as Director of Emergency Services to mitigate the very severe public health threat posed by COVID-19 while complying with the County SIPO's strict social distancing requirements, by issuing rules and regulations to authorize expanded outdoor dining at City restaurants when they are permitted to reopen by the County Health Officer;

WHEREAS, the City Council further seeks to suspend the enforcement of specific SCCC provisions during the Local Emergency to facilitate safe social distancing with the anticipated reopening of restaurants when authorized by the County Health Officer; and,

WHEREAS, at a public hearing on June 9, 2020 members of the public were provided with an opportunity to provide public testimony on this Resolution.

NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

1. The foregoing recitals are true and correct and are made a part hereof.
2. The City Council hereby directs the City Manager to use her authority as Director of Emergency Services under SCCC § 2.140.060(f)(1) to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by the emergency for the expanded operation of outdoor restaurant dining, as presented at the public hearing on June 9, 2020.

3. The City Council hereby directs City staff to temporarily suspend the enforcement of the requirement for Architectural Review approval for outdoor seating, per Code Section 18.34.030(a)(6), and for the requirement for a Use Permit for outdoor seating, per Code Section 18.34.040(c), in commercial districts provided the business owner has obtained an Outdoor Dining Permit.

4. The City Council hereby directs staff to temporarily permit outdoor seating at restaurants and food service businesses with an Outdoor Dining permit in the OG General Office, PD Planned Development and PD-MC Planned Development-Master Community Districts, notwithstanding SCCC Sections 18.32.040, 18.54.030, and 18.56.040. The City Council further directs staff to temporarily permit outdoor seating at restaurants and food service businesses in the ML Light Industrial and MH Heavy Industrial Districts with an Outdoor Dining permit, if such restaurants or food service businesses are operating pursuant to an approved Use Permit, notwithstanding SCCC Sections 18.48.030 and 18.50.030.

5. The City Council hereby directs staff to temporarily suspend enforcement of the provisions of the parking regulations applicable to restaurants in Section 18.74.020 (r) of the Zoning Ordinance, provided that at least half of the parking spaces on the subject site remain available for use by vehicles.

6. The City Manager or the designee and all other proper officers and officials of the City are hereby authorized and directed to make modifications to those rules and regulations as necessary to respond to changing conditions and to otherwise execute such other agreements, documents and certificates, and to perform such other acts and deeds, as may be necessary or convenient to affect the purposes of this Resolution.

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7. This Resolution shall remain in effect until such time as the Director of Emergency Services or the City Council issue a proclamation declaring the Local Emergency to be concluded, or until repealed by the Council, whichever comes first. The granting of the temporary benefits contained in this resolution is intended only to facilitate the protection of the public health during the Local Emergency and is not intended to confer a new land use entitlement or property right. Any permits issued pursuant to this resolution shall be revocable at any time without advance notice.

8. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 9TH DAY OF JUNE, 2020, BY THE FOLLOWING VOTE:

AYES:	COUNCILORS:	Chahal, Davis, Hardy, O'Neill, and Watanabe, and Mayor Gillmor
NOES:	COUNCILORS:	None
ABSENT:	COUNCILORS:	None
ABSTAINED:	COUNCILORS:	None

ATTEST:



NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference:
1. Outdoor Dining Permit Application



City of Santa Clara

Community Development
Planning Division
1500 Warburton Ave.
Santa Clara, CA 95050
www.santaclaraca.gov

Planning Division: 408-615-2450

Email: Planning@santaclaraca.gov

Permit Center: 408-615-2420

Email: PermitCenter@santaclaraca.gov

Automated Inspection Scheduling System: 408-615-2400

Permit Application for Outdoor/ Sidewalk Dining

General Requirements:

1. The operator of the outdoor dining area will submit an Outdoor Dining compliance form (Permit) to the City to verify adherence to the following criteria, including authorization from the property owner of the affected private property.
2. Outdoor dining shall be associated with a legally established/permitted food service venue (restaurant or café) on an adjacent or near adjacent property.
3. The outdoor dining area shall displace no more than 50% of the existing parking spaces.
4. The outdoor dining area will be operated in conformance with other regulatory requirements including the Building Code, the city business tax certificate, the Department of Alcoholic Beverage Control, and Santa Clara County Health Department.
5. The outdoor dining area is not located within 40 feet of a single-family residential use, except on the ground floor of mixed-use developments, where outdoor dining can be located adjacent to the restaurant uses.
6. The outdoor dining area may encroach into the public right-of-way (but not including roadways), provided that a minimum clear sidewalk width of 48" is maintained. A separate Encroachment Permit is not required for such outdoor dining area encroachments.
7. A minimum clear exit width of 48" from all building exits to the public right-of-way must be maintained.
8. All required driveways and vehicular circulation must be kept clear.
9. Access is maintained for utility boxes, water hydrants, and any other equipment per City standards.
10. Any chairs, tables, umbrellas, etc. placed within the public right-of-way must be removed from the sidewalk at the end of each business day.
11. Any new structures, plumbing, mechanical, or electrical work will be subject to Building Permit requirements. Separate Building Permit(s) must be obtained as applicable.
12. All outdoor dining areas must be maintained and kept clean of litter.
13. By signing this permit application, the applicant acknowledges that this permit is issued pursuant to the City Manager's authority as Director of Emergency Services and is intended only to respond to the local emergency, and that as such, the authorization is temporary, and may be revised or revoked at any time without further notice.
14. Proof of insurance will need to be provided to the satisfaction of the City's Risk Manager for any case where dining will occur on public property including the public right-of-way.
15. There is no fee for this Permit.

Provide a floor plan drawn to scale of the proposed outdoor dining area, indicating:

1. The associated building front, including all windows and doors.
2. The locations of all proposed table and chair locations.
3. Indicate all the required clearances noted above.
4. Indicate the proposed fire extinguisher locations. Note the size and type of fire extinguishers. A minimum of one new fire extinguisher is required.
5. Indicate any proposed railing or planter locations. Provide to scale drawings of the plans and elevations of all proposed railings.
6. Identify any portions of the public right-of-way which will be utilized as outdoor dining.
7. Identify any parking area that will be utilized as outdoor dining and provide a parking analysis to demonstrate that the project will maintain at least 50% of existing parking spaces.

The outdoor dining permit application must be reviewed by the following city departments/ divisions, you may contact the staff directly to discuss the application if you wish:

Department/ Division	city staff signature/ approve in city permit system
Santa Clara Building Division 408-615-2440	
Santa Clara Fire Dept./ Fire Prev./ Haz. Mat.'s Div. 408-615-4970	
Santa Clara PW Dept./ Engineering Division 408-615-3000	
Other (To be determined by city staff.)	
	all applicable div.'s above to sign prior to planning signature
Santa Clara Planning Division 408-616-2450	

1. An outdoor dining permit may be revoked by City staff at any time.
2. An issued outdoor dining permit scope of work cannot be revised, a new outdoor dining permit application must be made for any significant changes proposed.



City of Santa Clara

Community Development
Planning Division
1500 Warburton Ave.
Santa Clara, CA 95050
www.santaclaraca.gov

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Permit Center: 408-615-2420

Email: PermitCenter@santaclaraca.gov

Automated Inspection Scheduling System: 408-615-2400

Permit Application for Outdoor/ Sidewalk Dining

Permit Number(s)		Project Address	
Date Received		Time Period Requested for Outdoor/ Sidewalk Dining	

Area of Work:

Full	Partial	Revision	Phase #
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The undersigned hereby applies for an outdoor/ sidewalk permit for the areas indicated on the outdoor/ sidewalk application plan attached for the above address.

Please PRINT all information legibly and sign where indicated

Job contact person/ responsible party		Company name	
Address		Telephone number	
Job contact signature		Email address	
Field contact person		Telephone number	

Owner name/ title		Telephone number	
Address		Email address	
Owner signature		Date	

Application received by:	Fee due (consult with Planning Division staff)	Approved by (Inspector signature):
Reviewed for compliance by:		Notified via: Date: