

**APPLE VALLEY
DIRECTOR OF EMERGENCY SERVICES**

EXECUTIVE ORDER NO. 2020-04

**EMERGENCY EXECUTIVE ORDER OF THE TOWN
MANAGER/DIRECTOR OF EMERGENCY SERVICES OF
THE TOWN OF APPLE VALLEY, CALIFORNIA,
IMPLEMENTING TEMPORARY OUTDOOR OPERATIONS
GUIDELINES WITH THE EXCEPTION OF OUTDOOR
DINING OPERATIONS COVERED BY EXECUTIVE
ORDER NO. 2020-03**

WHEREAS, conditions of extreme peril to the safety of persons and property have arisen within the Town of Apple Valley caused by the worldwide spread of respiratory illness due to the novel coronavirus known as COVID-19; and

WHEREAS, the federal government, the State of California; and the County of San Bernardino have declared emergencies as a result of the spread of COVID-19; and

WHEREAS, on March 19, 2020, California Governor Gavin Newsom issued a stay-at-home order to protect the well-being of all Californians and to establish consistency across the state in order to slow the spread of COVID-19; and

WHEREAS, on March 20, 2020, in my capacity as Director of Emergency Services, I proclaimed the existence of a local emergency in the Town of Apple Valley ("Town") in connection with the global pandemic caused by the spread of a novel coronavirus, COVID-19 ("Proclamation 2020-01"); and

WHEREAS, on March 24, 2020, the Town Council ratified Proclamation 2020-01 through the adoption of Resolution No. 2020-10 proclaiming the existence of a local emergency and expressly authorizing the Town Manager/Director of Emergency Services to enact protections to protect the public health, safety, and welfare; and

WHEREAS, Government Code section 8634 and Chapter 2.40 of the Town's Municipal Code designates the Town Manager to serve as Emergency Services Director and make rules and regulations to protect life and property; and

WHEREAS, on July 1, 2020, Governor Newsom and the California Department of Public Health issued "Guidance on Closure of Sectors in Response to COVID-19," requiring closure of indoor dine-in restaurants in the County of San Bernardino; and

WHEREAS, on July 4, 2020, in my capacity as Director of Emergency Services, I adopted Executive Order No. 2020-03, suspending and modifying Town rules that limit and restrict outdoor dining, and implementing temporary procedures for expanded outdoor dining; and

WHEREAS, on July 13, 2020, Governor Newsom announced a new Statewide Public Health Officer Order closing indoor operations for gyms and fitness centers, places of worship, offices for non-critical sectors, personal care services, hair salons and barbershops, malls, movie theaters and family entertainment centers, zoos and museums, and cardrooms; and

WHEREAS, the new Statewide Public Health Officer Order authorizes these affected businesses to continue as outdoor operations including through the use of a tent, canopy, or other sun shelter so long as no more than one side is closed; and

WHEREAS, in order to permit the continued operation of businesses in the Town, to protect the economic viability of the Town, and afford Town residents an opportunity to obtain the services they need within the Town, it is necessary to establish temporary rules relating to the outdoor operations of business; and

WHEREAS, the temporary rules promulgated through this Order shall be applicable to any operations where the State or County prohibits indoor operations but leaves open avenues for outdoor operations; and

WHEREAS, this Order is adopted pursuant to the Town's police powers under article XI, section 7 of the California Constitution and under any powers afforded to the Town in time of national, state, county and local emergency during an unprecedented health pandemic, such powers being afforded by the State Constitution, State law, and the Chapter 2.40 of the Apple Valley Municipal Code to protect the peace, health, and safety of the public; and

WHEREAS, this Order is necessary for the preservation of the public peace, health, and safety of residents living within the Town and, under Government Code Section 8634, this Order is necessary to provide for the protection of life and property.

BE IT ORDERED BY THE TOWN MANAGER/DIRECTOR OF EMERGENCY SERVICES OF THE TOWN OF APPLE VALLEY AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are incorporated herein by this reference. The recitals and findings in Proclamation 2020-01 and Resolution 2020-10 are also incorporated herein by this reference.

SECTION 2. Temporary Outdoor Operations Guidelines. The "Temporary Outdoor Operations Guidelines" attached hereto as Exhibit A shall take effect immediately and shall take precedence over any inconsistent provisions contained in the Town's Municipal Code, Development Code, use permit, condition of approval, or other regulation or entitlement. Town staff is hereby directed not to enforce such regulations and entitlements to the extent they are inconsistent with the guidelines and procedures promulgated herein. Nothing herein limits any Town officer from enforcing other provisions of the Town's Codes. This Order does not supersede or allow deviations from any federal, state, or county laws and regulations applicable to any operation affected by this Order, including but not limited to the Americans with Disabilities Act.

The "Temporary Outdoor Operations Guidelines" shall apply to any business operation where the State or County has prohibited indoor operations but has left open the possibility of continued outdoor operations. For example, the Guidelines shall apply to the businesses affected by the Statewide Public Health Officer Order issued on July 13, 2020 and to any subsequently enacted State or County order affecting businesses within the Town.

SECTION 3. Outdoor Dining. The temporary regulation of outdoor dining shall continue to be governed by Executive Order No. 2020-03 and shall not be affected by this Order.

SECTION 4. Severability. If any provision of this Order or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications and, to this end, the provisions of this Order are declared to be severable.

SECTION 5. Effective Date and Termination. This Order shall become effective immediately and shall continue until the earlier to occur of: (1) the conclusion of the local emergency; (2) its termination is ordered by the Town Manager/Director of Emergency Services; or (3) it is duly terminated by the Town Council. The Order may also be superseded by a duly enacted ordinance of the Town Council expressly superseding this Order.

ORDERED by the Town Manager/Director of Emergency Services this 14th day of July, 2020.



Douglas B. Robertson
Town Manager/Director of Emergency
Services
Town of Apple Valley

EXHIBIT A
TEMPORARY OUTDOOR OPERATIONS GUIDELINES

The Town of Apple Valley will allow existing businesses at existing locations within the Town to temporarily create or expand outdoor operations areas notwithstanding any preexisting limitations imposed under the Town's Municipal Code.

General Guidelines

1. Business owners and operators shall read and comply with the current Emergency Orders issued by the State of California and County of San Bernardino Public Health Officer.
2. Outdoor seating arrangements shall be designed to comply with social distancing guidelines, for example by maintaining a minimum six-foot (6') social distance between patrons not arriving as part of the same unit.
3. Outdoor operations areas shall comply with any applicable ADA access requirements. A minimum three-foot (3'-0") foot wide path of travel shall be maintained along all pedestrian walkways from the parking lot and/or public right-of-way to all public building entrances.
4. The business owner or operator shall obtain written authorization from the property owner for the use of private sidewalks or other areas for outdoor operations. In general, outdoor operations may be located on sidewalks or patio areas immediately adjacent to the front of the business. Any use of private property must be approved by the landowner. These guidelines do not authorize trespass on private property.
5. Tenants in shopping centers with multiple businesses shall work with the other tenants and management to equitably allocate the available space for temporary outdoor operations in coordination with landowners.
6. Tables, chairs, umbrellas, or other temporary objects shall not be located in a manner that creates a hazardous condition as determined by the Fire District officials, obstructs the entrance to any building or fire safety equipment, or impedes the flow of pedestrian or vehicle traffic.
7. Removable barriers, such as stanchions, retractable belts, plants, or screens no more than three feet (3'-0") in height, may be used to delineate outdoor operations areas from the pedestrian path of travel.
8. No furniture, fixture, or equipment shall be permanently affixed to the sidewalk.
9. Access to indoor restroom must be provided; portable toilets are not permitted.

10. Operating hours for outdoor operations areas shall be consistent with the indoor operating hours.
11. Entertainment events and all forms of amplified sound are not allowed in conjunction with temporary outdoor operations.
12. Business owners and operators shall maintain the cleanliness and appearance of all outdoor operations areas.
13. No advertising shall be allowed in temporary outdoor operations areas except the business's name and logo. Each business may post one sign with a maximum area of four (4) square feet.
14. Parking areas immediately adjacent to the business (head-in parking) may be considered for temporary use for outdoor operations if no other options are available. Each business shall maintain the minimum number of parking spaces required per Town Code. Total outdoor operations area shall not under any circumstances exceed the original operations area of the business.
15. Adequate safety barriers such as walls, water-filled or concrete K-rails, concrete wheelstops in conjunction with a visual barrier a minimum of three (3) feet in height, or planters shall be installed to protect any outdoor operations areas adjacent to drive aisles.
16. Facilities open for outdoor operations must also offer curbside pickup or delivery alternatives.

Informal Review Process

Business owners or operators who want to establish temporary outdoor operations in compliance with the above guidelines may do so without a permit and without availing themselves of this informal review process. Nevertheless, as an additional service to assist businesses with compliance, informal review may be sought from the Town's Planning Division (planning@applevalley.org). A request for an informal review should include a simple site layout (may be drawn by hand). No fee will be charged, and next-business day approval will be possible for most applications. Planning staff will contact the applicant if additional information is needed. A complete informal review application will include the following:

- a. A detailed description of the proposed outdoor operations area and operations contemplated. Please include the general location and square footage of the outdoor operations area, the location of any temporary outdoor furniture to be used, approved occupancy of the business, hours of operation, number of employees per shift, and total onsite parking spaces. Please include the property owner authorization (if applicable).
- b. A scaled diagram showing the location of the temporary operations area, the temporary outdoor furniture to be used, location of emergency/ADA access, and location of parking and any safety barriers, etc.



SONIA Y. ANGELL, MD, MPH
State Public Health Officer & Director

State of California—Health and Human Services Agency
California Department of Public Health



GAVIN NEWSOM
Governor

**Statewide Public Health Officer Order,
July 13, 2020**

On March 19, 2020, I issued an [order](#) directing all individuals living in the State of California to stay at home except as needed to facilitate authorized, necessary activities or to maintain the continuity of operations of critical infrastructure sectors. I then set out California's path forward from this "Stay-at-Home" Order in California's [Pandemic Resilience Roadmap](#). On May 7th, I [announced](#) that statewide data supported the gradual movement of the entire state into Stage 2 of the Pandemic Resilience Roadmap. On May 8th, the Governor outlined a process where counties that met specific criteria could move more quickly than other parts of the state through Stage 2 of modifying the Stay-at-Home order, including certain businesses deemed higher risk.

The statewide data has since demonstrated a significant increase in the spread of COVID-19, resulting in public health conditions that demand measures responsive to those conditions be put into place with haste. On June 28, 2020, the California Department of Public Health (CDPH) issued [guidance](#) setting forth the need to close bars and similar establishments in counties that – due to concerning levels of disease transmission, hospitalizations, or insufficient testing – had been on the County Monitoring List, which includes counties that show concerning levels of disease transmission, hospitalizations, insufficient testing, or other critical epidemiological markers, for 14 days. On July 1, 2020, CDPH issued [guidance](#) specific to counties on the County Monitoring List for three consecutive days, requiring closure of the indoor operations of various sectors, including restaurants, wineries, and certain entertainment venues, as well as all bars indoor and outdoor. Based on my judgment as the State Public Health Officer, it is now necessary to take these steps statewide, to take additional steps for counties on the County Monitoring List, and to continue to monitor and modify the process of reopening.

The current data reflect that community spread of infection is of increasing concern across the state. On July 1, 2020, there were 19 counties on the County Monitoring List. As of July 13, 2020, there are 32 counties on the list, and additional counties may soon be added as data warrants. In addition to the impact on the general population, community spread increases the likelihood of expanded transmission of COVID-19 in congregate settings such as nursing homes, homeless shelters, jails and prisons. Infection of these vulnerable populations in these settings can be catastrophic. Higher



levels of community spread also increase the likelihood of infection among individuals at high risk of serious outcomes from COVID-19, including the elderly and those with underlying health conditions who might live or otherwise interact with an infected individual.

The Pandemic Resilience Roadmap classifies bars, pubs, breweries, brewpubs, dine-in restaurants, wineries and tasting rooms, family entertainment centers, zoos, museums, and cardrooms as Stage 2 or Stage 3 sectors with high risk of transmission due to a number of features of the businesses and the behaviors that occur within them. Public health studies have shown that the risk of transmission is exacerbated in indoor spaces, particularly when lacking appropriate ventilation. These sectors are settings where groups convene and may mix with others for a prolonged period of time, increasing the risk of escalating the transmission rate of COVID-19. While physical distancing is critical to mitigating exposure, it is more effective at protecting an individual with brief exposures or outdoor exposures. In contrast to indoor spaces, wind and the viral dilution in outdoor spaces can help reduce viral load.

Bars, both indoor and outdoor, have additional risk factors. A bar, foundationally, is a social setting where typically not only small groups convene, but also where groups mix with other groups. Bars also have an added risk imposed by the consumption of alcohol as a primary activity offered in such venues. Alcohol consumption slows brain activity, reduces inhibition, and impairs judgment, factors which contribute to reduced compliance with recommended core personal protective measures, such as the mandatory use of face coverings and maintaining six feet of distance from people in different households, both indoors and outdoors. Louder environments and the cacophony of conversation that are typical in bar settings also require raised voices and greater projection of orally emitted viral droplets.

For counties on the County Monitoring List, the risks and impacts of disease transmission are even greater. The science suggests that for indoor operations the odds of an infected person transmitting the virus are dramatically higher compared to an open-air environment. Thus, for those counties on the list, it is necessary to close indoor operations for additional sectors which promote the closed-space mixing of populations beyond households and/or make adherence to physical distancing with face coverings difficult, including: gyms and fitness centers, places of worship, protests, offices for non-Critical Infrastructure sectors as designated on covid19.ca.gov, personal care services (including nail salons, massage parlors, and tattoo parlors), hair salons and barbershops, and malls.

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NOW, THEREFORE, I, as State Public Health Officer and Director of the California Department of Public Health, order all of the following:

Statewide Order Relative to Bars, Pubs, Brewpubs, and Breweries

1. Bars, pubs, brewpubs, and breweries, whether operating indoors or outdoors, shall be closed across the state, unless an exception below applies.
 - a. Bars, pubs, brewpubs, and breweries, may operate outdoors if they are offering sit-down, outdoor, dine-in meals. Alcohol can be sold only in the same transaction as a meal. When operating outdoors, they must follow the [dine-in restaurant guidance](#) and should continue to encourage takeout and delivery service whenever possible.
 - b. Bars, pubs, brewpubs, and breweries that do not provide sit-down meals themselves, but can contract with another vendor to do so, can serve dine-in meals when operating outdoors provided both businesses follow the [dine-in restaurant guidance](#) and alcohol is sold only in the same transaction as a meal.
 - c. 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 must follow the [guidance for retail operations](#) and offer curbside sales only.
 - d. Concert, performance, or entertainment venues must 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.

2. Indoor operations shall be restricted across the state as specified below:
 - a. Dine-in restaurants must close indoor seating to customers. During this closure all dine-in restaurants may continue to utilize outdoor seating and must comply with the [guidance for outdoor dining](#). Restaurants should continue to encourage takeout and delivery service whenever possible.
 - b. Wineries and tasting rooms must close indoor services to customers. During this closure all wineries and tasting rooms operating outdoors must comply with the [guidance for restaurants, wineries, and bars](#).
 - c. Family entertainment centers and movie theaters must close indoor services and attractions to customers.
 1. Family entertainment centers may continue to provide outdoor services and attractions to customers, and must comply with the guidance for [movie theaters and family entertainment centers](#).

2. Drive-in movie theaters may continue to operate and should follow additional applicable guidance for [drive-in movie theaters](#).
- d. Indoor attractions at zoos and museums must close to visitors.
 1. Zoos and museums may continue to operate outdoor attractions and must follow the [guidance for zoos and museums](#).
- e. Cardrooms must close indoor services to customers and must follow the [guidance for cardrooms](#).

Order for Closure of Additional Indoor Sectors for Counties on Monitoring List

3. Counties that currently appear on CDPH's County Monitoring List and have been on the list for three consecutive days, and counties that subsequently appear for three consecutive days or more while this order remains effective, must close all indoor operations of the following types of businesses/events/activities:

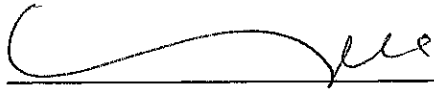
- a. Gyms and Fitness Centers
- b. Places of Worship
- c. Protests
- d. Offices for [Non-Critical Infrastructure Sectors](#)
- e. Personal Care Services (including nail salons, massage parlors, and tattoo parlors)
- f. Hair salons and barbershops
- g. Malls

Terms of Orders

4. This order shall go into effect immediately.
5. These closures shall remain in effect until I determine it is appropriate to modify the order based on public health conditions.
6. Outdoor operations may be conducted under a tent, canopy, or other sun shelter but only as long as no more than one side is closed, allowing sufficient outdoor air movement.
7. I will continue to monitor the epidemiological data and will modify the sectors that may be open both statewide and in counties on the Monitoring List as required by the evolving public health conditions. If I determine that it is appropriate to reopen, close, or modify the operations of any additional sectors, those sectors will be posted at: <https://covid19.ca.gov/roadmap-counties/>.
8. My [guidance](#) mandating the wearing of face coverings and my [guidance](#) prohibiting gatherings continue to apply statewide, except as specifically permitted in other orders or guidance documents. To prevent further spread of COVID-19 to and within other

jurisdictions within the State, Californians should not travel significant distances and should stay close to home.

9. This order is issued pursuant to the authority under EO N-60-20, and Health and Safety Code sections 120125, 120130(c), 120135, 120140, 120145, 120150, 120175, 120195 and 131080.



Sonia Y Angell, MD, MPH
State Public Health Officer & Director
California Department of Public Health