



## City of Montclair

### Emergency Order 07-06-20-1

July 6, 2020

#### Temporary Al Fresco (Outdoor) Dining

On Monday, March 16, 2020, the Montclair City Council adopted Resolution No. 20-3263 declaring a local public health emergency in the City of Montclair in relation to the Novel Coronavirus (COVID-19).

In declaring a local public health emergency, the City Council invoked Section 6.080.060 of Chapter 6.08 of Title 6 of the Montclair Municipal Code providing that the City Manager, as Director of Emergency Services, is empowered to "*make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency.*"

By virtue of authority vested in me as Director of Emergency Services, pursuant to Section 6.080.060 of Chapter 6.08 of Title 6 of the Montclair Municipal Code, and whereas implementation of temporary procedures for expanded al fresco (outdoor) dining is critical in order to provide safe, nutritional dining options for residents and visitors to the City of Montclair, I hereby declare and order the following to be necessary in the City of Montclair:

Effective immediately, and until rescinded, dine-in restaurants within the City of Montclair will be allowed to temporarily create or expand al fresco (outdoor) dining areas notwithstanding any preexisting limitations imposed under the Montclair Municipal Code.

This City of Montclair Community Guidance is based on provisions of [Dine-In Restaurants Guidance](#) issued by the California Department of Public Health updated on Thursday, July 2, 2020 and [Guidance on Closures of Sectors in Response to Covid-19](#) by Governor Newsom and the California Department of Public Health published on July 1, 2020.

#### **Temporary Al Fresco Dining General Guidelines**

1. Restaurant owners and operators shall read and comply with the current Emergency Order issued by the State of California and County of San Bernardino Public Health Officer.
2. Outdoor seating arrangements shall limit the number of patrons at a single table to no more than six (6) individuals (preferably members of the same household).
3. Outdoor seating arrangements shall maintain a minimum six-foot (6') social distance between patrons seated at different tables.
4. Outdoor dining areas shall comply with any applicable ADA access requirements. A minimum three-feet (3'-0") 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.

#### CITY OF MONTCLAIR

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Mayor Javier John Dutrey • Mayor Pro Tem Carolyn Raft • Council Members: Bill Ruh, Tenice Johnson, Corysa Martinez • City Manager Edward C. Starr

5. The restaurant owner or operator shall obtain written authorization from the property owner for the use of private sidewalks or other areas for outdoor dining. In general, outdoor dining areas may be located on sidewalks or patio areas immediately adjacent to the front of the restaurant. Any use of private property must be approved by the landowner. These guidelines do not authorize trespassing on private property.
6. Tenants in shopping centers with multiple restaurants shall work with the other tenants and management to equitably allocate the available space for temporary outdoor dining in coordination with landowners.
7. Tables, chairs, umbrellas, or other temporary objects shall not be located in a manner that creates a hazardous condition as determined by the Fire Official, obstructs the entrance to any building or fire safety equipment, or impedes the flow of pedestrian or vehicular traffic.
8. Removable barriers, such as stanchions, retractable belts, plants, or screens may not exceed more than three feet (3'-0") in height, may be used to delineate outdoor dining areas from the pedestrian path of travel.
9. No furniture, fixture, or equipment shall be permanently affixed to the sidewalk.
10. Outdoor storage or preparation of food or beverages is not permitted.
11. Access to indoor restroom must be provided; portable toilets are not permitted.
12. Operating hours for outdoor dining areas shall be consistent with the indoor operating hours.
13. Entertainment events and all forms of amplified sound are not allowed in conjunction with temporary outdoor dining.
14. Restaurant operators shall maintain the cleanliness and appearance of all outdoor dining areas.
15. No advertising shall be allowed in temporary outdoor dining areas except for one restaurant banner not to exceed fifty (50) square-feet.
16. Alcohol may be sold to patrons in conjunction with a meal, but may not be sold independently. Bar areas shall remain closed to customers. Dining establishments must comply with all applicable regulations of the California Department of Alcoholic Beverage Control (ABC). Those dine-in restaurants seeking to provide the sale of alcohol as part of the temporary al fresco dining must submit to ABC a [Covid-19 Temporary Catering Authorization Application](#) and [Supplemental Diagram Application](#).
17. Parking areas immediately adjacent to the restaurant (head-in parking) may be considered for temporary use as outdoor dining if no other options are available. Each restaurant shall maintain the minimum number of parking spaces required for available seating, or shall otherwise receive City authorization for a temporary reduction to parking requirements. If a reciprocal parking agreement is in force, the restaurant operator shall obtain written approval from other businesses covered under the reciprocal parking agreement. Total outdoor seating area shall not under any circumstances exceed the original occupancy of the restaurant.

18. 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 seating areas adjacent to drive aisles.
19. Facilities open for outdoor dining must also offer curbside pickup, takeout, or delivery alternatives.
20. Enclosed tent structures are not permitted for al fresco dining. Canopies up to 200 square feet in size are allowed without the requirement of a building permit. If multiple canopies are in use, they may not be tied to one another. Canopies must be properly secured to the ground in order to ensure for the safety of the public. Canopies larger than 200 square feet are not recommended and will require the submittal of structural plans to include (1) structural calculations by a professional engineer; and (2) recite of a building permit with inspection before the canopy can be occupied. Please allow one to two weeks to have plans approved before a permit is issued.

### **Informal Review Process**

Restaurant owners or operators who want to provide temporary al fresco dining in compliance with the above guidelines may do so without a building 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 City of Montclair's Planning Division via email at [mwesterlin@cityofmontclair.org](mailto:mwesterlin@cityofmontclair.org) or by phone at (909) 625-9437. A request for an informal review should include a simple site layout. 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 seating area and operations. Please include the general location and square footage of the outdoor dining area, the total number of tables and chairs, approved occupancy of restaurant hours of operation, number of employees per shift, and total on-site parking spaces. Please include the property owner authorization (if applicable).
- b. A scaled diagram showing the location of the temporary dining area, number of tables and chairs, location of emergency/ADA access, and location of parking and any safety barriers, etc.
- c. Compliance with each of the applicable conditions listed above under "**Temporary Al Fresco Dining General Guidelines**".

**BY ORDER OF**



Edward C. Starr  
Director/City Manager  
Office of Emergency Services

