



# **MANDATORY DIRECTIVE:**



## Dining, Bars, Wineries, and Smoking Lounges

**Issued October 9, 2020**

[sccgov.org/coronavirus](https://sccgov.org/coronavirus)

**County of Santa Clara**  
**Public Health Department**

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**MANDATORY DIRECTIVE FOR DINING, BARS, WINERIES, AND  
SMOKING LOUNGES**

**\*Please confirm that your facility may open under the State Order. Where there is a difference between the local County Order and the State Order, the more restrictive order must be followed. The State also has specific guidance for certain facilities that must be followed in addition to this mandatory directive.\***

Information on the State's Order and State guidance is available at [covid19.ca.gov](https://covid19.ca.gov).

**Issued: October 9, 2020**

**Last Revised: January 3, 2021**

**Effective: December 6, 2020 at 10:00 p.m.**

**--- IMPORTANT NOTICE ---**

Under the State's December 3, 2020 Regional Stay at Home Order and the County Health Officer's December 4, 2020 Mandatory Directive Implementing State's Stay At Home Order, all dining establishments (including restaurants, bars, wineries, and other food service facilities) and smoking lounges are **temporarily prohibited from providing any on-site service, whether indoor or outdoor. This restriction is in effect until 12:01 a.m. on the day after the California Department of Public Health announces that the County is no longer subject to the Regional Stay at Home Order, unless the County Health Officer otherwise rescinds, modifies, or extends this restriction.** Dining establishments and smoking lounges may provide only curbside pickup, takeaway, and/or delivery service.

The rules below allowing on-site meal service at dining, winery, and bar/brewpub/distillery operations and on-site smoking lounge operation are **not operative** while these prohibitions are in effect.

***On August 28, 2020, the State issued a Statewide Public Health Officer Order ("State Order," available [here](#)) and the Blueprint for a Safer Economy ("Blueprint,"***

available [here](#)). *The State Order and Blueprint establish statewide restrictions applicable to each “tier” to which counties are assigned.*

*Restaurants, bars, wineries, and smoking lounges must follow the mandatory requirements in this Directive and any other applicable County Health Officer Directive, the County Health Officer’s Revised Risk Reduction Order issued on October 5, 2020, the applicable restrictions under the State Order and Blueprint, the State’s COVID-19 Industry Guidance documents, and any applicable health and safety regulations. When there is a difference between these rules, the most restrictive rule must be followed.*

*For additional rules that apply to restaurants, bars, wineries, and smoking lounges, please see the following COVID-19 Industry Guidance from the State:*

- **Restaurants:** <https://files.covid19.ca.gov/pdf/guidance-restaurants-bars-wineries--en.pdf>
- **Wineries:** <https://files.covid19.ca.gov/pdf/guidance-wineries--en.pdf>
- **Bars/Brewpubs/Distilleries:** <https://files.covid19.ca.gov/pdf/guidance-bars--en.pdf>

Current medical and scientific evidence shows that COVID-19 is spread mainly through respiratory droplets and aerosols that are produced when an infected person exhales. These respiratory droplets and aerosols may remain in the air for long periods of time in indoor spaces, putting other individuals who visit this shared space at risk. Properly worn face coverings help to reduce the spread of respiratory droplets and aerosols, and locating activities outdoors helps to disperse respiratory droplets and aerosols that are exhaled. Enhancing indoor ventilation and increasing outdoor air exchange in indoor spaces also helps to disperse and/or remove aerosols, but not as effectively as locating activities outdoors.

Because people must remove face coverings to eat, drink, or smoke, businesses whose operations center around these activities (including restaurants, wineries, bars, and smoking lounges) must take extra precautions to reduce the risk of COVID-19 transmission in providing on-site service to customers. Takeaway meal service remains the safest option, followed by outdoor dining with risk mitigation measures. Stronger mitigation measures are needed to bring the risks of indoor dining to an acceptable level. Even when allowed, indoor dining is discouraged, particularly for seniors, others who are particularly vulnerable to complications from COVID-19, and individuals who interact with these groups.

When indoor dining is allowed, restaurants, wineries, and other food facilities may provide both indoor and outdoor sit-down meal service for customers subject to the restrictions in this Directive. When indoor dining is not allowed, sit-down meal service and food or drink consumption by customers is only allowed outdoors, and alcohol may be served only together

with sit-down outdoor meal service. Healthcare facilities may continue to provide meal service indoors even when indoor dining is not allowed.

When indoor dining is allowed, bars, breweries, brewpubs, pubs, and distilleries may serve alcohol outdoors with or without a meal in accordance with the rules for outdoor dining; further, these businesses may serve alcohol indoors, but only with sit-down meal service and in accordance with the rules for indoor dining. When indoor dining is not allowed, these businesses may provide outdoor service only, and they may only serve alcohol together with outdoor sit-down meal service subject to the restrictions in this Directive.

Due to the particularly heightened risk of COVID-19 transmission associated with their operations, **smoking lounges are not allowed to operate indoors**, except for services allowed by the State and County Health Officers (such as takeaway retail sales and food service in accordance with the provisions of this Directive). Smoking lounges may operate outdoors subject to the restrictions in this Directive.

**This Directive is mandatory, and failure to follow it is a violation of the Health Officer’s Order issued on October 5, 2020** (“Order”). Restaurants, wineries, bars, smoking lounges, and similar facilities must comply with the Order, all requirements of this Directive, and all requirements of applicable State industry-specific guidance.

Placement of indoor and outdoor seating arrangements, food and alcohol service, outdoor smoking lounge operations, and other operations must also comply with state and local laws, regulations, and permitting requirements. Major changes to food service operations, such as the addition of cleaning stations, food preparation areas, or food storage areas may require advance approval by the Department of Environmental Health (DEH). Contact DEH for more information at: [www.EHinfo.org](http://www.EHinfo.org), [DEHWEB@cep.sccgov.org](mailto:DEHWEB@cep.sccgov.org), or (408) 918-3400.

### *The Order Issued October 5, 2020*

The Order imposes several restrictions on all businesses and activities to ensure that the County stays as safe as possible, including but not limited to the following:

- **The Social Distancing Protocol:** All businesses and governmental entities that have not already done so must fill out and submit a Revised Social Distancing Protocol under the October 5, 2020 Health Officer Order. **Social Distancing Protocols submitted prior to October 11, 2020 are no longer valid.** The Revised Social Distancing Protocol must be filled out using an updated template, which is available [here](#). The Protocol is submitted under penalty of perjury, meaning that everything written on the form must be truthful and accurate to the best of the signer’s knowledge, and submitting false information is a crime. The Protocol must be distributed to all workers, and it must be accessible to all officials who are enforcing the Order.

- **Signage:** All businesses and governmental entities must print (1) an updated COVID-19 PREPARED Sign and (2) a Social Distancing Protocol Visitor Information Sheet, and both must be posted prominently at all facility entrances. These are available for printing after submission of the Social Distancing Protocol online. The Social Distancing Protocol specifies additional signage requirements.
- **Face Coverings:** Everyone must wear face coverings at all times specified in the California Department of Public Health’s mandatory [Guidance for the Use of Face Coverings](#) (“Face Covering Guidance”) and in any specific directives issued by the County Health Officer. Further, even where not required under State or local guidance and orders, face coverings should be worn to the maximum extent possible (1) when indoors and not in one’s own residence and (2) whenever outdoors and within six feet of anyone outside one’s own household. **This Directive sets forth specific rules for use of face coverings at establishments covered by this Directive.**
- **Capacity Limitation:** All businesses must comply with the capacity limitations established in the [Mandatory Directive on Capacity](#).

See the [Order](#) and the [FAQ page](#) for more details.

## I. General Requirements for All Dining Establishments

All dining establishments must comply with every applicable requirement in the State’s industry-specific guidance for restaurants providing outdoor dining, takeout, drive-through, and delivery (available at <https://files.covid19.ca.gov/pdf/guidance-outdoor-restaurants--en.pdf>) and in the State’s industry-specific guidance for restaurants, wineries, and bars (available at <https://files.covid19.ca.gov/pdf/guidance-restaurants-bars-wineries--en.pdf>). They must *also* take the supplemental steps specified in this Directive. In the event of a conflict between State guidance and this Directive, the more restrictive measure must be followed.

### 1. *Require Use of Face Coverings by Customers and Staff*

- a. Customers must wear face coverings at any time when they are at the business facility (either inside or outside) and not eating or drinking, including but not limited to: while they are waiting to be seated; while reviewing the menu and ordering; while socializing at a table waiting for their food or drinks to be served or after they have finished their meals; anytime that they are interacting with a server or other staff (such as when a server approaches their table to take an order or to deliver or pick up food or drinks); and any time they leave the table (such as when being seated, using a restroom, or departing). Customers may remove their face coverings once their food or drinks have been served and may leave them off until they finish their meal, so

long as they are not interacting with a server or other staff and remain seated at their table. Customers may not remove their face coverings to eat or drink inside the facility after picking up food for take-out.

b. Dining establishments must take the following measures to remind customers of face covering requirements:

i. After sanitizing each table between customer parties, dining establishments must place a sign or card (no smaller than 3 x 5 inches) at the table with at least the following or substantially similar instructions:

“Help us keep our business open, protect our staff, and protect fellow diners by following our simple guidelines:

- Keep your mask on until your food or drinks are served.
- Put your mask on whenever a server approaches your table.
- Put your mask on whenever you leave your table.
- Wash or sanitize your hands.

Thank you for helping protect the health of our staff and your fellow customers!”

ii. Dining establishments must advise and, as necessary, remind customers of the face covering requirements and refuse entry to customers who decline to wear face coverings (except for those exempt from face covering requirements under the State’s [Face Covering Guidance](#), including very young children; people for whom face coverings are medically inadvisable; and people who are hearing impaired or communicating with someone who is hearing impaired, where the ability to see the mouth is essential for communication).

c. Staff must wear face coverings at all times while at the facility either indoors or outdoors (except if a face covering is medically inadvisable, if it would be unsafe for a specific job duty, or if it must be removed for communication with someone who is hearing impaired). Businesses are responsible for ensuring that staff wear face coverings at all time.

## 2. *Ensure Adequate Social Distancing*

a. Tables must be limited to no more than six people per table, all of whom must be

from the same household. People seated together at the same table do not need to maintain six-foot social distance from each other.

- i. All dining establishments must post signage and verbally inform customers that everyone sharing a table must be from the same household.
  - ii. Tables must be separated by at least 10 feet (as measured from the edge of the tables), to allow at least six feet of distance between members of separate households.
- b. All customers must be seated to eat or drink. Customers are not allowed to gather, dance, or circulate between tables, at bar areas, or in other areas of a dining facility.
- c. Discontinue seating customers at bar counters, food preparation areas, and similar spaces where they cannot easily maintain at least six feet of distance from an in-use work area/station or from other customers who are not in their party.
- d. Facilities must arrange their space to allow adequate social distance between customers who are seated and other customers accessing their tables, as well as members of the public passing by outdoor dining areas.
- e. Seating areas used by customers at quick-service (fast food) restaurants, as well as shared food courts and other common dining areas, must be managed to ensure compliance with the requirements in this Directive.

### *3. Implement Enhanced Hand Hygiene and Sanitization Measures*

- a. Require servers to wash or sanitize their hands between visiting each customer party.
- b. Thoroughly clean and sanitize each customer eating/drinking location (including tables and chairs) before seating the next customer group, following [CDC guidelines](#). Tables and chairs used by customers self-seating at quick-service restaurants and shared food courts/common outdoor dining areas must likewise be cleaned between use by each group of customers.

### *4. Offer Customers Alternatives to On-Site Dining*

- a. Facilities must offer curbside pickup, takeaway, and/or delivery service alternatives to provide customers a less risky alternative to on-site dining.

## **II. Additional Requirements for All Outdoor Dining Establishments**

In addition to the requirements applicable to all dining establishments set forth in Section I above, any establishment offering outdoor dining must comply with the requirements in this

section.

### *1. Meet Outdoor Facility Criteria*

- a. To operate for outdoor dining service, a facility must allow for the free flow of outdoor air through the entire space, as specified in the California Department of Health's mandatory guidance on [Use of Temporary Structures for Outdoor Business Operations](#).
  - i. Partitions or barriers around or within the facility may be used and do not qualify as closed sides so long as they are no more than 3 feet in height as measured from the floor and do not impede the free flow of air through the entire facility. A partition or barrier that is greater than 3 feet in height is considered a closed side.
  - ii. Fences and screens that do not impede airflow are not considered closed sides for purposes of determining whether an area is outdoors.

Facilities that do not meet these conditions may provide seated dining service to customers under the rules for indoor dining in Sections I and III of this Directive.

- b. Advise customers that if they are dining outdoors, they may enter indoor areas only to: (1) access a restroom, (2) access an outdoor dining facility, or (3) order or pickup food or beverages at an indoor counter.

### *2. Prioritize Outdoor Dining*

- a. Because dining outdoors is less risky than dining indoors, dining establishments are strongly encouraged to use, prioritize, and expand outdoor space for dining whenever feasible.
- b. Dining establishments are encouraged to expand outdoor seating where possible along right of ways or other outdoor areas as approved by local jurisdictions to maximize spacing between tables and increase the availability of outdoor seating.

### *3. Rules for Live Entertainment*

- a. Live entertainment at outdoor dining facilities must comply with the following restrictions:
  - i. Performers must wear face coverings and must remain at least 6 feet away from each other and from all customers at all times.
  - ii. Performers may not sing or play wind or brass instruments.

- b. Only ambient/atmospheric entertainment is allowed, and live entertainment may not involve featured performances. For example, a restaurant may hire a pianist and a guitarist or a DJ to play ambient music in the background as customers enjoy their meals in the outdoor dining space. But the restaurant may not host a featured entertainment event (such as a stand-up comedian performing a comedy routine or a musical group performing an onstage concert), as coordinated entertainment activities promote prolonged gatherings.

#### 4. *Restrictions on Alcohol Service*

- a. For outdoor operations when indoor dining is allowed:
  - i. Alcohol may be served outdoors independent of a meal.
  - ii. Alcohol may be served to customers only while the customers are seated at their outdoor tables. Customers may not be seated or served at a bar counter.
- b. For outdoor operations when indoor dining is not allowed:
  - i. Alcohol may be sold to customers only in the same transaction as an outdoor meal. For instance, if a restaurant serves alcohol from its bar, it may sell that alcohol to customers only as part of their outdoor meal service. Dining facilities may not hold customer tickets/tabs open for the purpose of serving alcohol to those customers beyond the conclusion of their outdoor meal service. Upon request by a County Enforcement Officer, the establishment must provide receipts or other proof that alcohol is purchased only with meals.
  - ii. Alcohol may be served to customers only while the customers are seated at their outdoor tables. Customers may not be served directly at a bar counter, and customers may consume alcohol only while seated at their table.

### **III. Additional Requirements for All Indoor Dining Establishments, When Permitted**

In addition to the requirements applicable to all dining establishments set forth in Section I above, any dining establishment offering indoor dining must comply with the requirements in this section. These requirements are only applicable when indoor dining is allowed.

#### 1. *Specified Indoor Dining Prohibitions*

- a. Because indoor dining creates a heightened risk of COVID-19 transmission, it is important to make sure that indoor dining operations are carefully controlled and kept separate from other business operations or activities that may be lower-risk. The

following indoor dining operations are therefore prohibited at all times:

- i. Worksite cafeterias (except for those in healthcare facilities or where closure would interfere with an essential governmental function).
- ii. Student dining halls and cafeterias at institutes of higher education; and shared dining halls and cafeterias in multi-unit residential facilities/complexes (unless residents do not have private spaces to safely dine in their own units).
- iii. Indoor dining operations at gyms, fitness centers, zoos, museums, aquariums, family entertainment centers, and cardrooms.
- iv. Food or drink service at indoor gatherings (except as necessary to carry out a religious ceremony).
- v. Food courts inside of indoor shopping malls.

Nothing in this Paragraph prohibits businesses that are closed for indoor dining from providing food or drink to customers on a delivery or takeaway basis to be consumed outside the facility, or from opening for outdoor dining in accordance with Sections I and II of this Directive.

## *2. Limit Indoor Dining Capacity*

- a. The number of customers in the indoor dining facility must be limited as specified in the [Mandatory Directive on Capacity Limitations](#).
- b. The establishment must conspicuously post a sign identifying the maximum number of customers allowed to dine inside the facility at any time; the posting must be visible to staff and customers inside the facility as well as from the exterior of the facility (e.g. posted on the inside and outside of the front door). If the facility consists of multiple dining areas, the establishment must also conspicuously post the maximum number of customers allowed in each dining area at the entrance to each respective dining area.
- c. Establishments must strictly monitor and control the flow of traffic into and out of the facility to ensure that capacity limits are not exceeded.

## *3. Institute Individual Screening Measures and Controls for Customers*

- a. Before allowing them to enter the facility for indoor dining, indoor dining establishments must ask all customers whether: (1) they are experiencing any

COVID-19 symptoms, (2) they have tested positive for COVID-19 in the past 10 days, and (3) they have knowingly been in close contact with anyone who has tested positive for COVID-19 within the past 14 days. If a customer answers yes to any of these screening questions, they must be prohibited from entering the facility.

- b. Indoor dining establishments must require at least one customer from each party seated together at a table to sign in upon entering the establishment (or in advance via remote sign-in), providing the following information:
  - i. Their full name, phone number, and email address;
  - ii. The date and time of their entry into the establishment (or of their reservation, if signing in in advance); and
  - iii. Confirmation that all individuals seated together at the table reside in the same household.

Businesses must maintain these records for at least 21 days. This information must be disclosed to the County Public Health Department on request for case investigation and contact tracing purposes, to protect the health of workers and customers. The County Public Health Department will keep this information confidential and use it only for case investigation and contract tracing purposes.

#### 4. *Discontinue Entertainment*

- a. No entertainment is allowed at this time. This includes live entertainment and entertainment on screens (e.g. TVs and movie screens). Low-volume background music that does not require customers to raise their voices to be heard is allowed.

#### 5. *Limit the Duration of Indoor Dining Activity*

- a. Indoor dining establishments must stop serving food and beverages to customers dining inside the establishment at or before midnight and may not resume indoor dining service until 5:00 a.m. Customers may remain seated inside the establishment until 12:30 a.m. to finish their meals but must leave no later than 12:30 a.m.

#### 6. *Restrict Alcohol Service*

- a. For indoor dining operations when allowed, alcohol may only be sold to customers in the same transaction as a meal. For instance, if a restaurant serves alcohol from its bar, it may only sell that alcohol to customers as part of their meal service. Indoor dining facilities may not hold customer tickets/tabs open for the purpose of serving alcohol to those customers beyond the conclusion of their meal service. Upon request

by a County Enforcement Officer, the establishment must provide receipts or other proof that alcohol is purchased only with meals.

- b. All alcohol must be served to customers while the customers are seated at their tables. Customers may not be served directly at a bar counter.

#### 7. *Enhance Ventilation and Outdoor Air Exchange*

- a. Open doors and windows (particularly in customer dining areas) to maximize circulation of outdoor air whenever environmental conditions and building requirements allow. Consider modifications to the facility to increase outdoor air exchange, such as replacing non-opening windows with openable screened windows. Contact your local Building Department for more information on permit requirements.
- b. Indoor dining establishments with central air handling/HVAC systems must ensure that HVAC systems are serviced and functioning properly and, to the extent feasible and appropriate to the facility:
  - i. Evaluate possibilities for and implement upgrades to the system to ensure that air filters are functioning at the highest efficiency compatible with the currently installed filter rack and air handling system (ideally MERV-13 or greater).
  - ii. Increase the percentage of outdoor air through the HVAC system, readjusting or overriding recirculation (“economizer”) dampers.
  - iii. Disable demand-control ventilation controls that reduce air supply based on temperature or occupancy.
  - iv. Implement the additional measures set forth in the County’s Guidance for Ventilation and Air Filtration Systems.
- c. Indoor dining establishments that do not have central air handling/HVAC systems or that do not operate or control the system must take the following measures, to the extent feasible and appropriate to the facility:
  - i. Set any ceiling fans to draw air upwards away from occupants.
  - ii. If using portable fans, position them near open doors/windows and use them to draw or blow inside air to the outside of the facility. Position fans to minimize blowing air between occupants, which may spread aerosols.
  - iii. Consider installing portable air filters appropriate to the space.

- iv. Implement additional applicable measures set forth in the County's Guidance for Ventilation and Air Filtration Systems.
- d. Upon request by a County Enforcement Officer or County Public Health Department Staff, the establishment may be required to perform a comprehensive evaluation of the facility's ventilation and air filtration system by an appropriately licensed professional, and produce documentation regarding this evaluation to the County.

#### **IV. Requirements for Bars, Wineries, and Smoking Lounges**

Bars, breweries, brewpubs, pubs, distilleries, wineries, and smoking lounges must comply with every applicable requirement in the State's industry-specific guidance for restaurants, wineries, and bars (available at <https://files.covid19.ca.gov/pdf/guidance-restaurants-bars-wineries--en.pdf>). They must *also* take the supplemental steps specified in this Directive. In the event of a conflict between State guidance and this Directive, the more restrictive measure must be followed.

##### *1. Bars, Breweries, Brewpubs, Pubs, and Distilleries*

- a. When indoor dining is allowed, bars, breweries, brewpubs, pubs, and distilleries that do not serve meals may provide sit-down service to customers outdoors in accordance with the rules for outdoor dining set forth in Sections I and II of this Directive and the following additional requirements:
  - i. Alcohol may be served to customers only while they are seated at their tables. Customers may not be seated or served at a bar counter.
  - ii. Customers partaking in outdoor service may enter inside the establishment only: (1) for takeaway retail sales, (2) to use a restroom, or (3) to access an outdoor space that may only be accessed by traveling through the establishment. Customers may not enter the establishment to pick up beverages to consume on-site at an outdoor portion of the facility.
- b. When indoor dining is allowed, bars, breweries, brewpubs, pubs, and distilleries may provide indoor alcohol service to customers only if the establishment provides sit-down, dine-in meal services and sells alcohol in the same transaction as a meal. Indoor service must be in accordance with the rules for indoor dining set forth in Sections I and III of this Directive.
- c. When indoor dining is *not* allowed, bars, breweries, brewpubs, pubs, and distilleries may provide alcohol service to customers outdoors only if the establishment provides sit-down, outdoor dine-in meals and sells alcohol in the same transaction as a meal. Outdoor service must be in accordance with the rules for indoor dining set forth in

Sections I and II of this Directive. Businesses that do not serve meals may contract with a permitted food vendor (such as a permitted mobile food truck) to provide sit-down, outdoor dine-in meals.

2. *Wineries*

- a. Wineries may operate outdoors, provided that food and/or beverage service is conducted in accordance with the rules for outdoor dining set forth in Sections I and II of this Directive.
- b. When indoor dining is allowed, wineries may operate indoors in accordance with the rules for indoor dining in Sections I and III of this Directive; except that tastings may occur without meal service, provided that wineries comply with all other indoor dining rules and applicable State guidance.

3. *Smoking Lounge*

- a. Smoking lounges may operate outdoors in accordance with the rules for outdoor dining set forth in Sections I and II of this Directive.
- b. Smoking lounges may not operate indoors except for the following:
  - i. Takeaway retail sales.
  - ii. Indoor dining in accordance with the rules in Sections I and III of this Directive, provided that the smoking lounge component of the operation is closed. For instance, a hookah lounge may serve tea, coffee, and snacks at indoor tables, but customers may not smoke hookah while inside the facility.
- c. For purposes of this Directive, “smoking lounge” refers to any business facility at which customers inhale tobacco or marijuana products by smoking, dabbing, vaping, or any similar means (including through the use of cigarettes, cigarillos, cigars, hookahs, water pipes, joints, pipes, bongs, e-cigarettes, vape pens, vaporizers, or any similar items).

***Stay Informed***

For answers to frequently asked questions about this industry and other topics, please see the [FAQ page](#). **Please note that this Directive may be updated.** For up-to-date information on the Health Officer Order, visit the County Public Health Department’s website at [www.sccgov.org/coronavirus](http://www.sccgov.org/coronavirus).

