



## **Health and Safety Standards for Outdoor Dining Pursuant to Executive Order Nos. 150, 157 and 194**

November 11, 2020

On November 9, 2020, the Governor issued Executive Order No. 194, which required food and beverage establishments to close indoor dining between 10:00 p.m. and 5:00 a.m. each day, restricted the seating at bar areas at food and beverage establishments and permitted the use of enclosed structures such as plastic domes for outdoor dining. Accordingly, establishments allowing outdoor dining are to adhere to these revised protocols.

### **ESTABLISHMENT**

Food or beverage establishments offering service must adhere to the protocols listed below:

- a. Post signage at the entrance that states that no one with a fever or symptoms of COVID-19 should enter the food or beverage establishment;
- b. Limit seating to a maximum of eight (8) customers per table (unless they are from an immediate family or from the same household) and arrange seating to achieve a minimum distance of six feet (6 ft) between parties;
- c. Rope off or otherwise mark tables, chairs and bar stools that are not to be used;
- d. Demarcate 6 feet of spacing in patron waiting areas;
- e. Provide physical guides, such as tape on floors and sidewalks, and signage on walls, to ensure that customers remain at least 6 feet apart in line for the restroom or waiting for seating;
- f. Eliminate self-service food options such as buffets and salad bars. Limit self-service drink stations to those that are able to be routinely and effectively cleaned and disinfected;
- g. Consider alternatives to paper/physical menus (whiteboards, electronic menus);
- h. Disinfect all tables, chairs and any other shared items (menus, condiments, pens) after each use;
- i. Consider using single-use condiments and table items;
- j. Install physical barriers and partitions at cash registers, bars, host stands and other area where maintaining physical distance of 6 feet is difficult;

- k. Bar seating is prohibited. Standing in a bar area is similarly not permitted. Table seating must be at least six (6) feet from a bar;
- l. Ensure 6 feet of physical distancing between workers and customers, except at the moment of payment and/or when employees are servicing the table;
- m. Require infection control practices, such as regular handwashing, coughing and sneezing etiquette, and proper tissue usage and disposal;
- n. Require frequent sanitization of high-touch areas like credit card machines, keypads, and counters to which the public and workers have access;
- o. Place conspicuous signage at entrance alerting staff and customers to the required 6 feet of physical distance;
- p. Establishment owners and staff shall work with and provide the local health authority and/or contact tracers with information requested related to positive cases;
- q. In the event of a presumptive or actual positive COVID-19 case of a worker, patron, or vendor, close off areas visited by the ill persons. Open outside doors and windows and use ventilating fans to increase air circulation in the area. Wait 24 hours or as long as practical before beginning cleaning and disinfection. Should thorough cleaning/ occur after the individual has visited the establishment but prior to notification of illness, then no additional closure/cleaning/disinfection needs to occur. Refer to current CDC guidance for additional information.

## **EMPLOYEES**

Establishments must follow the requirements of Executive Order No. 192 (2020), including the health and safety protocols outlined in Paragraph 1, to protect their employees, customers, and other visitors at the worksite, which require establishments to abide by the following requirements:

- Require that individuals at the worksite maintain at least six feet of distance from one another to the maximum extent possible, including but not limited to during worksite meetings, orientations and similar activities that would traditionally require individuals to be present in a single room or space and in close proximity, in common areas such as restrooms and breakrooms, and when individuals are entering and exiting the workplace. Where the nature of an employee's work or the work area does not allow for six feet of distance to be maintained at all times, employers shall ensure that each such employee wears a mask as provided below and shall install physical barriers between workstations wherever possible.

- Require employees, customers, visitors, and other individuals entering the worksite to wear cloth or disposable face masks while on the premises, in accordance with CDC recommendations, except where the individual is under two years of age or where it is impracticable for an individual to wear a face mask, such as when the individual is eating or drinking, where doing so would create an unsafe condition in which to operate equipment or execute a task (i.e. cooks that work near open flames), or where a service being provided by the employer cannot be performed on an individual who is wearing a mask;
- Masking requirements specific to employees:
  - Employers may permit employees to remove face masks when the employees are situated at their workstations and are more than six feet from other individuals at the workplace, or when an individual is alone in a walled office;
  - Employers must make available, at their expense, such face masks to their employees;
  - Nothing in this subsection shall prevent employees from wearing a surgical-grade mask or other more protective face mask, or interfere with the employer’s obligation to provide employees with more protective equipment if it is otherwise required because of the nature of the work involved; and
  - Employers may deny entry to the worksite to any employee who declines to wear a face mask, except when doing so would violate State or federal law. Where an employee cannot wear a mask because of a disability, an employer may, consistent with the Americans with Disabilities Act (“ADA”) and/or New Jersey Law Against Discrimination (“NJLAD”), be required to provide the employee with a reasonable accommodation unless doing so would be an undue hardship on the employer’s operations. An employer may require employees to produce medical documentation supporting claims that they are unable to wear a face mask because of a disability.
- Masking requirements specific to customers and visitors:

- Employers may deny entry to the worksite to any customer or visitor who declines to wear a face mask, except when doing so would violate State or federal law. The employer may be required to provide a customer or visitor who declines to wear a mask due to a disability services or goods via a reasonable accommodation, pursuant to ADA and NJLAD, unless such accommodation would pose an undue hardship on the employer's operations; and
  - Where a customer or other visitor declines to wear a face mask on the premises due to a disability that inhibits such usage, neither the employer nor its employees shall require the individual to produce medical documentation verifying the stated condition, unless production is otherwise required by State or federal law.
- Provide sanitization materials, such as hand sanitizer that contains at least 60% alcohol and sanitizing wipes that are approved by the United States Environmental Protection Agency for SARS-CoV-2 virus to employees, customers, and visitors at no cost to those individuals;
  - Ensure that employees practice regular hand hygiene, particularly when such employees are interacting with the public, and provide employees break time for repeated handwashing throughout the workday and access to adequate hand washing facilities. Employers may adopt policies that require employees to wear gloves in addition to regular hand hygiene. Where an employer requires its employees to wear gloves while at the worksite, the employer must provide such gloves to employees;
  - Routinely clean and disinfect all high-touch areas in accordance with DOH and CDC guidelines, particularly in spaces that are accessible to employees, customers, or other individuals, including, but not limited to, restrooms, hand rails, door knobs, other common surfaces, safety equipment, and other frequently touched surfaces including employee used equipment, and ensure cleaning procedures following a known or potential exposure are in compliance with CDC recommendations;
  - Prior to each shift, conduct daily health checks of employees, such as temperature screenings, visual symptom checking, self-

assessment checklists, and/or health questionnaires, consistent with CDC guidance, including latest CDC guidance regarding COVID-19 symptoms, consistent with the confidentiality requirements of the ADA, NJLAD and any other applicable laws, and consistent with any guidance from the Equal Employment Opportunity Commission (“EEOC”) and the New Jersey Division on Civil Rights;

- Immediately separate and send home employees who appear to have symptoms, as defined by the CDC, consistent with COVID-19 illness upon arrival at work or who become sick during the day. Employers subject to the New Jersey Earned Sick Leave Law, New Jersey Family Leave Act, N.J.S.A. 34:11D-12 and/or federal leave laws must continue to follow the requirements of the law, including by allowing individuals to use accrued leave in the manner permitted by law and employer policy, when requiring employees to leave the workplace in accordance with the provisions of this subparagraph;
- Promptly notify all employees of any known exposure to COVID-19 at the worksite, consistent with the confidentiality requirements of the ADA and any other applicable laws, and consistent with guidance from the EEOC;
- Clean and disinfect the worksite in accordance with CDC guidelines when an employee at the site has been diagnosed with COVID-19 illness; and
- Continue to follow guidelines and directives issued by the New Jersey DOH, the CDC and the Occupational Safety and Health Administration, as applicable, for maintaining a clean, safe and healthy work environment.

b. In addition, establishments must:

- Require employees to wash and/or sanitize their hands when entering the food or beverage establishment;
- Require all customer-facing employees (e.g. servers, bus staff) to minimize time spent within 6 ft of customers;
- Place tables in break rooms six feet apart and encourage outdoor breaks;
- Prohibit the use of small spaces (e.g. freezers, storage rooms) by more than one individual at a time;

- Conduct health checks for all live performers and encourage the use of masks when feasible.

## **CUSTOMERS**

Food or beverage establishments offering service must institute the following policies with respect to customers:

- a. Inform customers of all required social distancing and hygiene practices;
- b. Encourage reservations for greater control of customer traffic/volume;
- c. Require customers to provide a phone number if making a reservation to facilitate contact tracing;
- d. Prohibit customers waiting for a table in the outdoor dining area from waiting inside the interior premises of the food or beverage establishment;
- e. Recommend that customers wait in their cars or away from the food or beverage establishment while waiting for a table if outdoor wait area cannot accommodate social distancing;
- f. Alert customers via calls/texts to limit touching and use of shared objects such as pagers/buzzers;
- g. Encourage the use of digital menus or alternatives to physical or paper menus; and
- h. Provide a hand sanitizer station for customers.
- i. Customers must wear face coverings at all times, pursuant to the provisions of Executive Order No. 192 (2020), except where the individual is under two years of age. When seated at their table or their individual seat, patrons shall wear face coverings until their food or drinks arrive, and after individuals have finished consuming their food or drinks, they shall put their face coverings back on.
- j. Decline entry to a customer who is not wearing a face covering, pursuant to the provisions of Executive Order No. 192 (2020), unless the customer is a child under two years of age.

## **OUTDOOR AREAS**

In addition to the requirements above, food or beverage establishments offering service must institute the following policies with respect to their outdoor areas, defined as open air spaces that either 1) have no roof or cover or 2) have a fixed roof or temporary or seasonal awning or cover, with at least two open sides that would comprise over 50 percent of the total wall space if the space were fully enclosed:

- a. Obtain all required municipal approvals and permits before offering food and/or beverage consumption at outdoor areas;

- b. Require customers who wish to enter the indoor portion of the establishment to wear a face covering, unless the customer is a child under two years of age; and
- c. Require that groups stay 6 feet apart even in areas where groups are not assigned seating.
- d. An outdoor area shall also include an outdoor enclosed structure, such as a plastic dome, that seats an individual party, provided they meet the following criteria:
- e. The use of the structures complies with the requirements for outdoor dining contained in Executive Order Nos. 157 (2020) and this guidance;
- f. Each party is limited to no more than eight individuals at a time;
- g. The structure is ventilated for a minimum of 15 minutes, then cleaned and sanitized in accordance with CDC guidance and the requirements outlined in this document between seatings;
- h. The structure and use of the structures otherwise comply with all other applicable codes and regulations, including the provisions of the Fire Safety Code; and
- i. Any necessary municipal approvals and permits are obtained before offering food and/or beverage consumption in the outdoor enclosed structure.

**NJ DEPARTMENT OF HEALTH  
PUBLIC HEALTH AND FOOD PROTECTION PROGRAM**

<https://www.nj.gov/health/ceohs/food-drug-safety/>

**Resources available from U.S. Food & Drug Administration (FDA), Centers for Disease Control and Prevention (CDC) and the U.S. Environmental Protection Agency (EPA).**

[FDA Best practices for Re-opening Retail Food Establishments During the COVID-19 pandemic checklist](#)

[FDA Food Safety and COVID-19 Questions and Answers for Industry: Food Supply Chain; Social Distancing, Disinfecting & Other Precautions; Workers Testing Positive](#)  
[CDC Implementing Safety Practices for Critical Infrastructure Workers Who May Have Had Exposure to a person with Suspected or Confirmed COVID-19](#)

[CDC Interim Guidance Resuming Operations for Restaurants and Bars](#)

[CDC Considerations for Restaurants and Bars](#)

[List of EPA registered surface disinfectants for use against COVID-19](#)