August 10, 2020

**State of California Orders**

Again, many of you might be wondering why the Ice Center of Cupertino has not reopened yet while the Solar 4 America rink (and others) have. The answer is that the guidance from the State of California has not changed, and it specifically says that ice rinks may not open. Here is the latest information from the State of California (everything highlighted in yellow are copied from outside sources): <https://covid19.ca.gov/industry-guidance/#top>

Industry closures

Statewide business closures

Bars, pubs, brewpubs, and breweries must close all operations both **indoor and outdoor statewide**, unless they are offering sit-down, outdoor dine-in meals. Alcohol can only be sold in the same transaction as a meal.

**All counties** must close **indoor**operations for the following business sectors: dine-in restaurants, wineries and tasting rooms, movie theaters and family entertainment centers (like bowling alleys, miniature golf, batting cages, and arcades), zoos and museums, and cardrooms.

So, to be clear, ALL COUNTIES must close indoor operations of Family Entertainment Centers, and all ice rinks are considered Family Entertainment Centers. There is zero latitude from the state to try to use the Day Camp Guidance the state has issued as a loophole to conduct skating or skills classes of any type. The term “Close indoor operations” speak for themselves.

In addition to that, all counties on the state Monitor list have the additional restrictions: <https://covid19.ca.gov/industry-guidance/#top>

### Closure of indoor operations for some businesses in certain counties

Counties on the [County Monitoring List](https://covid19.ca.gov/roadmap-counties/#affected-counties) must close **indoor** operations for the following business sectors, events, and activities:

* Gyms and fitness centers, like yoga and dance studios
* Places of worship and cultural ceremonies, like weddings and funerals
* Offices for non-essential (non-critical infrastructure) sectors
* Personal care services, like nail salons and body waxing
* Shopping malls
* Hair salons and barbershops

All Bay Area counties are on the state Monitor list, so in addition to all Family Entertainment Centers being closed as a mandate from the State of California, there are these additional restrictions.

**CDC Guidelines**

Although the above State of California mandates unequivocally state that ice rinks are to be closed, there is further information from the CDC: <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/youth-sports.html>

Guiding Principles to Keep in Mind

There are a number of actions youth sports organizations can take to help lower the risk of COVID-19 exposure and reduce the spread during competition and practice. The more people a child or coach interacts with, the closer the physical interaction, the more sharing of equipment there is by multiple players, and the longer that interaction, the higher the risk of COVID-19 spread. Therefore, risk of COVID-19 spread can be different, depending on the type of activity. The risk of COVID-19 spread increases in youth sports settings as follows:

* **Lowest Risk**: Performing skill-building drills or conditioning at home, alone or with family members.
* **Increasing Risk**: Team-based practice.
* **More Risk**: Within-team competition.
* **Even More Risk**: Full competition between teams from the same local geographic area.
* **Highest Risk**: Full competition between teams from different geographic areas.

**Santa Clara County**

The Bay area, and especially Alameda, San Mateo and Santa Clara counties, are experiencing the most cases of Covid-19 since the pandemic started in earnest in the U.S. in March. Doing anything beyond conditioning at home with family members is taking a risk at a time of peak infection.

Now, let’s turn to the County of Santa Clara. We received the following from the County on August 1 in reply to our inquiry regarding the status of ice rinks throughout the Bay Area, and in fact the state as a whole:

Thank you for your inquiry Michael.

The State has required all indoor family entertainment venues to stop indoor operations at this time. The State does allow for these venues to modify operations to be conducted outdoors. This is a requirement all counties must follow at this time.

<https://covid19.ca.gov/roadmap-counties/#top>



Take care and be safe.

*For additional resources click on the links below:*

[County of Santa Clara Public Health COVID-19 Information](https://www.sccgov.org/sites/phd/DiseaseInformation/novel-coronavirus/Pages/home.aspx)

[CDC COVID-19 Information](https://www.cdc.gov/coronavirus/2019-ncov/index.html)

[County of Santa Clara General Information](http://www.sccgov.org/)

I followed up that email with a question asking who enforces these rules and what the penalties are for breaking these rules. I received the following:

Thank you for your inquiry Michael.

If a business is found operating outside of what the Order allows, the District Attorney’s Office and Sheriff’s Department will be the ones to respond. They may ask another agency to assist in the investigation, but fines an possible other legal actions may be required.

<https://www.sccgov.org/sites/covid19/Pages/order-health-officer-07-02-20.aspx>

**Enforcement.** Pursuant to Government Code sections 26602 and 41601, Health and Safety Code section 101029, and Santa Clara County Ordinance Code section A1-34 et seq., the Health Officer requests that the Sheriff, all chiefs of police in the County, and all enforcement officers ensure compliance with and enforce this Order.  The violation of any provision of this Order constitutes an imminent threat and menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment, or both.

If you wish to report a business that you think is operating in violation of the Health Officer Order, please [fill out this form​](https://www.sccgov.org/sites/da/Pages/COVID-19-stay-in-place-order-complaint.aspx) instead.

Customers are informed that they can report any deficiencies in compliance with Protocol requirements to County of Santa Clara Office of the District Attorney at [www.santaclara-da.org](http://www.santaclara-da.org/) or pubhealthreferral@dao.sccgov.org

If you are a worker, volunteer, or other Personnel concerned about an employer violating the Order, you can contact the County Office of Labor Standards Enforcement Advice Line at 866-870-7725.

Take care and be safe.

*For additional resources click on the links below:*

[County of Santa Clara Public Health COVID-19 Information](https://www.sccgov.org/sites/phd/DiseaseInformation/novel-coronavirus/Pages/home.aspx)

[CDC COVID-19 Information](https://www.cdc.gov/coronavirus/2019-ncov/index.html)

[County of Santa Clara General Information](http://www.sccgov.org/)

Obviously, this is a serious matter: “Violation of any provision of this Order constitutes an imminent threat and menace to public health…”.

**Current Status**

We have been saying that same thing since mid-June: Ice Rinks are not allowed to be in operation in California. It is not safe for our staff or our customers for an ice rink to be open in any form at this time. The number of Covid-19 cases, hospitalizations and ICU admittances is higher now than at any other time in the Bay Area and in California.

The bottom line as of now is that the State of California has said, repeatedly, that it is not safe to reopen ice rinks at this time. While counties may take it upon themselves to institute more restrictive Covid-19 rules, they may not institute less restrictive rules than the state mandates.

With the continuing recent surge in Covid-19 positive cases, hospitalizations and ICU admissions, it is simply not safe to reopen indoor facilities for gatherings of any type. It is not safe for our customers and not safe for our staff.

Yes, we would very much like to reopen the Ice Center of Cupertino. Our customers want to skate, our staff wants to work, and like businesses everywhere, we very much need the revenue that opening would bring in. But, while all of that is important, even very important, it does not override the fact that opening the rink would needlessly risk Covid-19 exposure to everyone that entered the building, and by extension, everyone those people came in contact with.

The ice remains in place, all of the mechanicals are being maintained, and we have stockpiled a large quantity of Covid-19 approved sanitizing items, including electrostatic guns, tens of thousands of wipes, gallons and gallons of hand sanitizer, etc. When it is allowed, and safe, we will reopen the Ice Center of Cupertino and operate under the rules in place at the time. We have contingency plans in place for limited operations, depending on the specifics of the restrictions at the time of reopening.

**Future Status**

Apparently, there are rumors floating around from unnamed sources that the Ice Center of Cupertino is going to close permanently. First, let me say that I always assume unnamed sources to be completely unreliable and they have no idea what is actually happening. I view them as stooges for other rinks or clubs, and nothing more. Their “information” is almost always false. If we were going to close the Ice Center of Cupertino, we would have done so in March or April versus spending tens of thousands of dollars on electricity, not to mention tens of thousands of dollars in rent and tens of thousands of dollars in labor costs since then.

The shopping center is moving forward with their development of the site. They prevailed in court over the Luddites from the Better Cupertino group in a completely lopsided decision, and the period allowed for appeal has passed with no further action. The entire Vallco site will be torn down, excavated and rebuilt. As of now, the only businesses remaining in place are Beni Hana, Bowlmor and ourselves. We have a very long term, ironclad lease, and we are continuing negotiations with the landlord as to what will happen while they rebuild the site. There is a strong likelihood that we will reopen in the current location if reopening is allowed by the State of California and the County of Santa Clara in a reasonable period of time (and, of course, that depends on the trends in new cases, hospitalizations and ICU admittances); after that, it’s very likely that we would have a temporary facility (with a NHL regulation sized rink) while the new, permanent rink is being built as part of the redevelopment of Vallco. We have no intention of going out of business permanently or closing down while the current location is razed and rebuilt. We have been negotiating with the landlord for several years, interrupted by the stalling tactics of Better Cupertino, and we are making good progress on a resolution as to how to move forward in the short and long term. It’s a long and complicated process, but one in which there is now light at the end of the tunnel.

Please stay safe and we very much look forward to you returning when appropriate to reopen.

Michael Benesh

Ice Center Enterprises

Ice Center of Cupertino