



**COVID-19 Emergency Declaration – City of Santa Cruz Executive Order No. 2020-21
(Extending and Modifying Portions of Executive Order No. 2020-16
Due to Continued COVID-19 Transmission Risk)**

- A. WHEREAS, in light of the current COVID-19 pandemic, the Santa Cruz City Council declared a local health emergency re: Coronavirus (COVID-19) by Resolution No. NS-29,640 on March 10, 2020. On April 28, 2020, June 23, 2020, August 11, 2020, and on September 22, 2020, the Santa Cruz City Council extended its declaration of a local health emergency, by way of Resolution Nos. NS-29,653, NS-29,677, NS-29,695, and NS-29,714.
- B. The County of Santa Cruz is currently experiencing an outbreak of COVID-19 which has been deemed a global health pandemic by the World Health Organization.
- C. As of today’s date, the County of Santa Cruz has reported 2,394 total known cases of COVID-19 within the County, which includes 302 active known cases, 2,082 recovered known cases, and, tragically, 10 deaths.
- D. WHEREAS, under Santa Cruz Municipal Code (SCMC) § 2.20.030, the City Manager serves as the Emergency Services Director. In the event of an emergency declaration, as the Emergency Services Director, the City Manager has the authority to take various actions in the City’s interest, including making and issuing “rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency” (SCMC § 2.20.040(1)) and requiring “emergency services of any city officer or employee”[.] (SCMC§ 2.20.040(3)).
- E. WHEREAS, the Emergency Services Director has the authority to conduct nuisance abatement under SCMC § 2.20.070, which provides “[w]henever, in the judgment of the director of emergency services, or of the director’s designee, it appears that a public nuisance exists in, on, or near any . . . property, constituting an immediate threat to public health or safety, requiring prompt action, the director, or the director’s designee, may order that the building, structure, or property, or a portion thereof, be immediately: (a) Vacated, barricaded, boarded up or otherwise secured against use or occupancy by all persons except as permitted by the order, and thereafter kept vacant . . .”

- F. WHEREAS, as the Emergency Services Director, the City Manager also has the authority to “[e]xecute all of his or her ordinary powers as a City officer, all of the special powers conferred upon him or her by this chapter or by resolution adopted pursuant thereto, all powers conferred upon him or her by any statute, agreement approved by the City Council, or by any other lawful authority, and in conformity with Section 38791 of the Government Code, to exercise complete authority over the City and to exercise all police power vested in the City by the Constitution and general laws.” SCMC 2.20.040(5).
- G. WHEREAS, in addition to emergency COVID-related authority, the City has general authority to promptly abate public nuisances and prevent the reoccurrence of nuisance conditions, especially on City-owned and/or City-operated property. *See*, for example, SCMC §§ 4.16.030, 4.01.010(16), California Constitution, Article XI § 7, and Cal. Penal Code § § 370, 372.
- H. WHEREAS, to reduce the spread of COVID-19, County, State, and Federal public health officials have provided public health guidance that individuals should: (1) avoid large congregations, (2) stay at least 6-feet away from individuals who reside in a different household, and (3) wear a face covering at all times when physical distancing is not possible.
- I. WHEREAS, the California Department of Public Health’s COVID-19 Industry Guidance for retail and restaurants providing takeout, drive-through, and delivery services currently requires: (1) physical distancing to the maximum extent possible; (2) frequent handwashing; (3) regular cleaning and disinfection; (4) training employees on these and other elements of the COVID-19 prevention plan; (5) temperature and/or symptom screenings for employees; (6) specific physical distancing guidelines, including: (a) clearly marked curbside or outside pickup points, (b) implementation of measures to ensure at least 6 feet of physical distancing, (e.g., floor markings, colored tape, or signs to indicate to where workers and/or employees should stand); (7) measures to minimize exposure between cashiers and customers, such as Plexiglass barriers; (8) rules against use of shared food items such as condiment bottles, salt and pepper shakers, etc., (9) encouragement of the use of debit or credit cards by customers, for example, through signage, and (10) consistent mask wearing. (*See* <https://files.covid19.ca.gov/pdf/guidance-take-out-restaurants--en.pdf>, last accessed September 30, 2020.)
- J. WHEREAS, the above-described guidance, protocols, and rules have been issued because of the propensity of the virus to spread person-to-person, because the virus is believed to attach to surfaces for prolonged periods of time, and because the virus is now believed to be spread via “airborne transmission.”
- K. WHEREAS, in the Summer of 2020, City staff observed that individuals and businesses, who were either vending or patronizing vendors near Main Beach, were generally not

consistently abiding by the COVID-19 guidance described in Paragraphs H and I above. Additionally, the City became aware of serious additional health and safety issues related to vending activities near Main Beach, including: (1) significant accumulation of trash, (2) violent altercations between vendors for the best locations, (3) unauthorized sale of alcohol, (4) unsafe food handling and refrigeration practices, and (5) streets and sidewalks being used as restrooms and smelling of urine.

- L. WHEREAS, in order to address unsafe overcrowding and the issues described in Paragraph K above, on or around August 14, 2020, the City issued Executive Order No. 2020-16. Paragraph 3 of Executive Order No. 2020-16 prohibited the operation of certain non-appurtenant businesses on Beach St., on the Santa Cruz Municipal Wharf, on West Cliff Dr., on Main Beach and on Cowell Beach. Unless extended or modified, that prohibition was set to expire on October 1, 2020.
- M. WHEREAS, Executive Order No. 2020-16 has been effective in reducing much of the unsafe overcrowding previously seen in the City's beach areas. It has also been effective in addressing the concerns and nuisance conditions described in Paragraph K above.
- N. WHEREAS, the COVID-19 emergency is still very serious in Santa Cruz, and the County of Santa Cruz is currently experiencing a concerning increase in COVID-19 cases.
- O. WHEREAS, the intent of this Executive Order is to extend the prohibitions contained in Paragraph 3 of Executive Order No. 2020-16, such that these prohibitions remain in force and effect until the City's COVID-19 emergency declaration expires or is terminated. Note that the City's COVID-19 emergency declaration can only be in effect for 60 days, unless further extended by the City Council.

NOW, THEREFORE, I, MARTIN BERNAL, City Manager, in accordance with the authority provided to me as Emergency Services Director under the Santa Cruz Municipal Code, and in particular SCMC Chapter 2.20, and also pursuant to SCMC Chapter 4, California Constitution, Article XI §7, and Cal. Penal Code § § 370, 372, hereby issue the following Order, to become effective immediately.

IT IS HEREBY ORDERED THAT:

1. The recitals above are hereby incorporated by reference.
2. As used in this Order, the term "non-appurtenant business" shall refer to any business operating on a City street, sidewalk, park, or beach which does not have a corresponding fixed business location operating out of a building on that street, sidewalk, park, or beach. This definition includes sidewalk vendors and those who engage in similar activities on streets and sidewalks, if individuals are offering food, goods, or services in exchange for

any type of consideration, including cash, credit card, trade, or a donation. This definition excludes the City's licensed surf school operators and other businesses that have entered into concessionaire contracts with the City.

3. Effective immediately and with the primary goal of preventing the spread of COVID-19 caused by overcrowding, non-appurtenant businesses are temporarily prohibited from operating in the areas described below. This prohibition shall remain in effect until the City's COVID-19 emergency declaration expires or is terminated.
 - a. On Beach Street,
 - b. on Santa Cruz Municipal Wharf,
 - c. West Cliff Drive, and
 - d. On Main Beach and Cowell Beach.
4. Except for the above-described modifications to Paragraph 2 and Paragraph 3 of Executive Order No. 2020-16, the remainder of the City's Executive Order No. 2020-16, shall continue to remain in full force and effect.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the City of Santa Cruz, its departments, officers, or employees.

IT IS SO ORDERED, on September 30, 2020



Martín Bernal
City Manager / Emergency Services Director