



**COVID-19 Emergency Declaration – City of Santa Cruz Executive Order No. 2020-11
(Authorizing Temporary Use of Certain Adjacent Public Streets and Outdoor Areas for
Restaurants and Other Retail Establishments)**

- 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; and
- B. WHEREAS, under Santa Cruz Municipal Code (SCMC) § 2.20.030, the City Manager serves as the Emergency Services Director; and
- C. WHEREAS, 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)); and
- D. 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); and
- E. WHEREAS, On March 19, 2020, the Governor issued Executive Order N-33-20 and the California Public Health Officer issued a corresponding order requiring people to stay home except as needed subject to certain exceptions; and
- F. WHEREAS, the economic impacts of the COVID-19 closure have been devastating to the local Santa Cruz economy; and
- G. WHEREAS, it is clear that the longer the emergency order is in place, the more difficult it will be for retail and restaurant operators to return and reopen their businesses; and
- H. WHEREAS, during this State of Emergency, the City of Santa Cruz must consider the welfare of its businesses while protecting the health and welfare of its citizens; and
- I. WHEREAS, cities across the State and County are either considering or already have temporarily closed their downtown streets to traffic to give restaurants and retail establishments more outdoor

space to safely serve customers when they are allowed to reopen, and cities are providing additional options for restaurants and commercial establishments to operate outdoors on private property to safely serve customers; and

- J. WHEREAS, on May 30, 2020, the California Department of Public Health accepted the Santa Cruz County variance attestation submitted by the County on May 29, 2020; and
- K. WHEREAS, on May 30, 2020, Santa Cruz County Health Services Agency issued its “SUPPLEMENTAL ORDER” authorizing all business operations and activities allowed by the State of California in Stage 2 with an approved variance to resume operations, pursuant to the State’s guidance on what business operations and activities are allowed in Stage 2 with a variance, as set forth at <https://covid19.ca.gov/roadmap/> and <https://covid19.ca.gov/roadmap-counties/>.

NOW, THEREFORE, I, MARTÍN BERNAL, City Manager, in accordance with the authority provided to me as Emergency Services Director under the Santa Cruz Municipal Code, and in particular Santa Cruz Municipal Code Chapter 2.20, hereby issue the following Order, to become effective immediately but subject to implementation consistent with this Order.

IT IS HEREBY ORDERED THAT:

- 1. All provisions of the afore-referenced orders declaring and explaining the public health, safety and welfare hazards and emergency posed by the COVID-19 virus, as well as the rationale for said orders’ regulations and restrictions relative to the transmission of said virus, are hereby incorporated by reference.
- 2. Temporary Street Closure. I hereby order the closure of the 1100 block of Pacific Avenue, south of Lincoln Street and north of Cathcart Street to vehicular and bicycle traffic to open the streets for a pedestrian promenade and limited commerce. I further order that additional streets may be temporarily closed to vehicular and bicycle traffic, in consultation with the City Engineer and City’s Transportation Manager.

This Order shall be implemented as follows:

- a. Beginning on June 8, 2020, the City Engineer pursuant to SCMC section 10.08.060, and in consultation with the City’s Transportation Manager, may close to vehicular and bicycle traffic from the beginning of the 1100 block of Pacific Avenue south of Lincoln Street to the north of the 1000 block of Pacific Avenue in order to protect the health and safety of pedestrians, employees and patrons of local businesses, and other members of the public by promoting effective physical distancing.
- b. Pursuant to Vehicle Code Sections 21103 and 22651(n), the City Engineer is directed to cause signs to be placed at all entrances to the streets designated to be closed and provide notice that violators may be cited for a violation of the temporary street closure. Lettering on the signs shall be at least one inch in height.

- c. All persons in the closure area are to comply with applicable social distancing and face covering protocols issued by the California Department of Public Health, and/or consistent with local or state orders, to reduce the spread of COVID-19.
3. The City Engineer in consultation with the City's Transportation Manager, shall designate an area extending no less than 14 feet in width, encompassing the prior vehicular driving lane of the closed street that is restricted for the use of pedestrians only. Sidewalk vendors as defined under Government Code Section 51036 shall not be permitted on any City street closed to through traffic pursuant to this Order to maximize appropriate physical distancing in compliance with guidance from the Center for Disease Control to protect public health and safety.
4. Use of Specified Areas. Notwithstanding provisions in the Santa Cruz Municipal Code to the contrary, I hereby authorize limited temporary expansion of existing permitted commercial uses of property in specific areas in the public right-of-way, of adjacent public streets, sidewalks, alleyways (Frasier Lewis Lane, Plaza Lane, Pearl Alley), parking lots, and parking spaces along City streets and the Santa Cruz Municipal Wharf, as well as in required off-street parking on private property¹ and private property setback areas of commercial premises, as follows:
 - a. All the structures, facilities, equipment and activity to accommodate the use of these areas must be of a temporary nature capable of being promptly removed upon expiration of or modifications to this Order. The City's Guidelines for Temporary COVID-19 Outdoor Business Operations ("Guidelines") shall set forth the requirements for the permissible use of the specified areas, consistent with this Order. Each business operator, after submitting an application pursuant to section 6, which adheres to the Guidelines and this Order, will receive approval from the Economic Development Department as to the size, dimensions and configuration of the outdoor business operation. If the application does not adhere strictly to the Guidelines, coordination between City departments and compliance with additional requirements may be necessary prior to any approval. Should Building Permits or Fire Department approvals be necessary, such approvals shall be obtained prior to installation of the temporary improvements.
 - b. All street closures and encroachments into the public right of way or private property which are inconsistent with the Guidelines will not be permitted unless approved by the City Engineer in consultation with the City's Transportation Manager.
 - c. All encroachments in the public right-of-way or on private property in the specified areas shall only be permitted for use as an outdoor extension of the adjacent or appurtenant commercial business and its use shall be limited to the same business activity as engaged in by the business operator, and as approved by the City.
 - d. All encroachments into the public sidewalks shall maintain an eight-foot (8') clearance on the sidewalk which shall in no way interfere with pedestrians or limit their free and

¹ Excluding City-owned or managed parking lots. The City's off-street parking requirements on private property are waived to accommodate temporary outdoor uses, subject to approval by the City's Economic Development Department, and the outdoor uses shall not increase the required parking for the site.

unobstructed passage. The City may require additional traffic controls in the interest of public safety.

- e. Nothing in this Order waives any provisions in Santa Cruz Municipal Code relating to fire or environmental protection, including codes adopted therein by reference.
 - f. The City shall at all times retain exclusive final authority over the public right-of-way areas, including the right to use the public right-of-way for maintenance of utilities, or other public infrastructure, and as necessary to protect public health, safety, and welfare.
 - g. No ownership or vested property interest is granted by allowing the temporary use of the designated public right-of-way areas or private property areas.
 - h. The permission to use the designated public right-of-way areas or private areas is revocable at any time at the City's sole discretion, or upon the expiration of the City's emergency declaration, or in the interest of the public health, safety, and welfare.
 - i. All of the restrictions of the Order adopted by Paragraph 5 with respect to restaurants and food service establishments, will apply to all such outdoor uses, regardless of their location.
 - j. It shall be the responsibility of the businesses to ensure accessibility to/from/in their areas conforms with the American Disabilities Act and the California Building Code.
 - k. All businesses operating pursuant to the terms of this Order must review and implement procedures set forth in the Industry Guidance documents as required by the California Department of Public Health (available at <https://covid19.ca.gov/industry-guidance/>).
5. Outdoor Food and Beverage Service. Temporary outdoor dining areas must comply with each of the following requirements:
- a. Requirements for obtaining the issuance of an outdoor extension area license or an outdoor curb extension license pursuant to Sections 24.10.2340 and 24.10.2341 of the Santa Cruz Municipal Code are temporarily suspended for food service establishments operating outdoor dining in accordance with this Order.
 - b. Food service establishments with frontage on City streets closed pursuant to this Order may add or expand their premises with outdoor dining onto the adjacent sidewalks or public rights-of-way as provided for under Sections 24.10.2340 and 24.10.2341 of the Santa Cruz Municipal Code, pursuant to the provisions of this Order, including Section 6. The expansion shall be limited to the width of the frontage of the participating food service establishment. Food service establishments may operate between the hours of 8:00 a.m. and 10:00 p.m. daily.
 - c. Businesses that wish to provide alcoholic beverage service in the closure area must meet all requirements of Section 24.10.2341.5.q.

- d. Service of alcoholic beverages will require approval from the California Department of Alcoholic Beverage Control (ABC).
 - e. Access required under the Americans with Disabilities Act and California Building Code shall be maintained at all times.
 - f. Fire hydrants must remain unobstructed.
 - g. Businesses must comply with all City noise regulations.
 - h. Food service establishments must provide conveniently located outdoor waste and recycling receptacles for customers, and the receptacles must be emptied, serviced and maintained at least daily. Businesses shall refrain from using public waste and recycling receptacles.
 - i. Smoking is prohibited in the expanded outdoor dining areas and closure areas.
 - j. Live music and amplified sound are prohibited.
 - k. All food service establishments must follow the requirements under Santa Cruz County Health Officer's Supplemental Order dated May 30, 2020, including completion of self-certifications, and as otherwise modified or superseded by successive orders.
 - l. No more than 6 people may use a single table at the same time. Patrons must maintain at least six-foot social distancing from individuals who are not part of the same household or living unit in accordance with orders from the Santa Cruz County Public Health Officer.
 - m. Food and beverage service must comply with the Santa Cruz County Department of Environmental Health requirements.
 - n. Food service establishments operating pursuant to the terms of this order must review and implement Guidance for Dine-In Restaurants (available at <https://covid19.ca.gov/pdf/guidance-dine-in-restaurants.pdf>) and post the accompanying checklist in the workplace (available at <https://covid19.ca.gov/pdf/checklist-dine-in-restaurants.pdf>) in accordance with the California Department of Public Health requirements.
 - o. The City's Engineer in consultation with the City's Transportation Manager may close parking spaces in the Central Business District areas affected by the street closure to facilitate temporary dining areas for the use of by the adjacent or appurtenant food service establishments.
6. Temporary COVID-19 Outdoor Use Permit Application. Any business operator, prior to commencing any outdoor business activity pursuant to the terms of this Order, shall submit an online application to the City's Economic Development Department on a form to be provided through the www.ChooseSantaCruz.com website, which shall include an indemnification agreeing to defend and hold the City, its officials, officers, employees and

agents, harmless from any liability arising from the use of the private property or designated City's right-of-way areas; shall furnish the City with a certificate of insurance satisfying the City's insurance requirements, as specified on the form, to obtain a Temporary COVID-19 Outdoor Use Permit; and shall agree to comply with all terms and conditions contained in this Order and in the Guidelines, as may be updated from time to time.

7. All outdoor business operations shall adhere to the Guidelines for temporary outdoor business operations, including size, configuration, barriers, entry and exits and social distancing protocols, except as otherwise approved in advance, in writing, by the City.
8. Any person who parks a vehicle in an area subject to temporary street closures created by this Executive Order is subject to prosecution or citation under any relevant provision of law, including sections 2.20.110 and 10.40.040 of the Santa Cruz Municipal Code, and the vehicle is subject to being towed pursuant to 22651(n) of the California Vehicle Code. This shall not apply to vehicles operated by the Police or Fire Department, any public ambulance or any public utility vehicle or any private ambulance, which public utility vehicle or private ambulance has qualified as an authorized emergency vehicle.
9. Any person who violates any of the provisions of this Executive Order is subject to citation and/or abatement pursuant any relevant provision of law, including Chapter 2.20 and Title 4 of the Santa Cruz Municipal Code. The Chief of Police is authorized and directed to take any necessary actions to assist in the enforcement of this Order.

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, officer, or employees.

IT IS SO ORDERED, on June 4, 2020



Martin Bernal
City Manager / Emergency Services Director