



COVID-19 Emergency Declaration – City of Santa Cruz Executive Order No. 2020-05
(Authorization to Issue Misdemeanor and Infraction Citations;
City Order for Public to Obey all Lawful Orders of the County and State)

- 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.
- B. WHEREAS, under Santa Cruz Municipal Code (SCMC) § 2.20.030, the City Manager serves as the Emergency Services Director.
- 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))
- 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).
- E. WHEREAS, as of today’s date, the County of Santa Cruz’s Health Officer has issued two “Shelter In Place” orders; the first is dated March 16, 2020, and the second and currently operative order is dated March 31, 2020. Furthermore, the County of Santa Cruz issued a “Supplemental Order,” dated April 8, 2020.
- F. WHEREAS, the March 31, 2020 County “Shelter in Place” order contains the following language: “Pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the Health Officer requests that . . . all chiefs of police in the County 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.” March 31, 2020 Order ¶ 14. According to the County Health Orders, a violation of the County Health Officer’s order is “a is a misdemeanor punishable by fine, imprisonment, or both.” March 31, 2020 Order, p. 1.

- G. As part of its effort to enforce County and/or State Health Orders, the Santa Cruz Police Department will, on occasion, need to issue misdemeanor citations, citing state law as the authority for the misdemeanor.
- H. WHEREAS, the City of Santa Cruz employs non-sworn personnel, including Rangers and Community Service Officers, who are trained and charged with issuing citations. Most frequently, these non-sworn personnel are charged with enforcing the Santa Cruz Municipal Code, but they may occasionally be charged with enforcing State law.
- I. WHEREAS, the City would benefit from authorizing certain non-sworn employees to enforce the County's Health Orders, for a more thorough and even enforcement of the Health Officer's order, especially in consideration of the number of individuals who are likely to violate these orders.
- J. WHEREAS, a question has arisen internally as to which City employees are authorized to enforce the State's and the County's Health Orders by way of misdemeanor citation.
- K. WHEREAS, Santa Cruz Municipal Code section 4.02.020 provides: "All city enforcement officials designated in Santa Cruz Municipal Code Section 4.02.021 shall have the authority and powers necessary to gain compliance with the provisions of the Santa Cruz Municipal Code and applicable state codes for which they are responsible." Santa Cruz Municipal Code Section 4.02.021 lists various City employee positions as being authorized to gain compliance with the Santa Cruz Municipal Code and applicable state codes.
- L. WHEREAS, due to the current state of health emergency, the City Manager has determined the urgency and necessity of providing clarity as to the issue as to which City employees are authorized to issue misdemeanor citations for violations of Health Orders related to the currently pending COVID-19 pandemic.
- M. WHEREAS, under State law, persons who disobey one or more order of the County Health Officer are committing a misdemeanor. However, given the nature of some of the expected offenses, it appears that an infraction could be a more suitable and fair characterization of the crimes that are expected to be committed (i.e., failure to socially distance and failure to shelter in place).
- N. WHEREAS, the City can independently require that individuals obey the orders of the Santa Cruz County Health Officer during the COVID-19 pandemic.
- O. WHEREAS, Santa Cruz Municipal Code section 4.04.010(3) provides that "any violation of this code which constitutes a misdemeanor under this code may, in the discretion of the city attorney, be charged and prosecuted as an infraction."

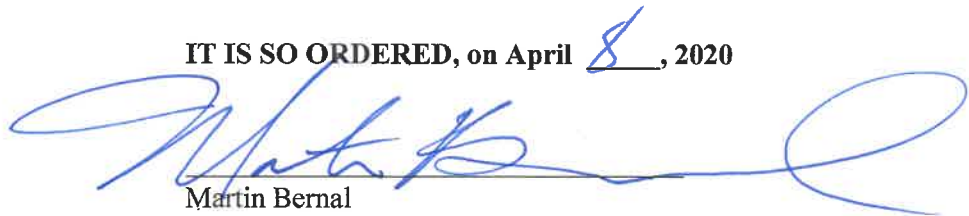
NOW, THEREFORE, I, MARTIN BERNAL, City Manager, in accordance with the authority provided to me as Emergency Services Director under the Santa Cruz Municipal Code, and in particular SCMC Chapter 2.20, hereby issue the following Order, to become effective immediately.

IT IS HEREBY ORDERED THAT:

- 1) All persons in the City of Santa Cruz are hereby ordered to obey all lawful orders from the County of Santa Cruz and the State of California related to the COVID-19 pandemic. This specifically includes Orders from the Santa Cruz County Health Officer and all Executive Orders from the Governor of California, along with all other lawful orders from the County and the State of California. Failure to abide by these orders may be prosecuted under any applicable law, including Santa Cruz Municipal Code section 2.20.110, which identifies a misdemeanor offense. At the City Attorney's discretion, pursuant to Santa Cruz Municipal Code section 4.04.010(3), citations issued under Santa Cruz Municipal Code section 2.20.110 may be charged and prosecuted as an infraction.
- 2) In addition to any other City employees who may be authorized by Santa Cruz Municipal Code section 4.02.021, the following categories of City of Santa Cruz employees are explicitly authorized and empowered to, without a warrant and whenever the enforcement official has reasonable cause to believe that the person has committed a violation of the municipal code or applicable state codes in his or her presence, effectuate an arrest by issuing misdemeanor and/or infraction citations arising out of State and/or City law for violations of City, State, and/or Santa Cruz County Orders related to the COVID-19 pandemic:
 - (a) Police chief
 - (b) All sworn SCPD personnel
 - (c) Community Service Officers (I and II)
 - (d) Community Service Aides
 - (e) Rangers (I, II, Senior Ranger, and Temporary Ranger)
 - (f) Fire chief
 - (g) All sworn SCFD personnel
 - (h) Marine Safety Officer
 - (i) Beach lifeguards
 - (j) Director and Assistant Director of Planning and Community Development, and their designated subordinates
 - (k) Code Compliance Specialists and Managers

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 April 8, 2020



Martin Bernal
City Manager / Emergency Services Director