

**CITY COUNCIL OF THE CITY OF SAND CITY
URGENCY ORDINANCE NO. 20-01, 2020**

**URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAND CITY
AFFIRMING ORDERS OF THE STATE PUBLIC HEALTH OFFICER AND THE
COUNTY OF MONTEREY PUBLIC HEALTH OFFICER RELATED TO COVID-19 AS
APPLICABLE AND ENFORCEABLE WITHIN CITY JURISDICTION AND
AUTHORIZING DIRECTOR OF EMERGENCY SERVICES TO DESIGNATE PUBLIC
OFFICERS OR EMPLOYEES TO ISSUE CITATIONS**

WHEREAS, the City of City of Sand City (“City”) is authorized by Article XI, Section 7 of the California Constitution and the Charter of the City of Sand City, Section 2, to make and enforce all regulations and ordinances using its police powers; and

WHEREAS, the California Emergency Services Act (California Government Code Section 8550, et. seq.) defines a local emergency as the existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a city, caused by conditions such as an epidemic, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of a city, and require the combined forces of other political subdivisions to combat; and

WHEREAS, Section 2.12.020 of the Sand City Municipal Code defines “emergency” as the “actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this City caused by such conditions as ... epidemic... which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of this City, requiring the combined forces of other political subdivisions to combat”; and

WHEREAS, in December 2019, reports began spreading worldwide about a flu- like virus first found in China that was significantly more deadly than the flu generally, with the virus becoming known as the Coronavirus (“COVID-19”); and

WHEREAS, on or about March 4, 2020, as part of the State of California’s response to address the global COVID-19 outbreak, Governor Gavin Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for a broader spread of COVID-19; and

WHEREAS, on March 6, 2020, the County Administrative Officer of Monterey County proclaimed a Local Emergency due to the threat of COVID-19 in the County; and

WHEREAS, on March 11, 2020, the World Health Organization (“WHO”) classified the spread of COVID-19 internationally as a global pandemic; and

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WHEREAS, on March 16, 2020, the City Manager of the City of Sand City, acting in his capacity as the Director of Emergency Services for the City, declared the existence of a local emergency within the City due to COVID-19; and

WHEREAS, on March 17, 2020, the City Council adopted Resolution SC-20-20 ratifying the City Manager's Proclamation Emergency Due to Spread of a Severe Illness Caused by a Coronavirus ("COVID-19"); and

WHEREAS, on March 19, 2020, Governor Gavin Newsom issued Executive Order N-33-20 in which all residents were directed to immediately heed the State public health directives which the Governor ordered the Department of Public Health to develop for COVID-19; and

WHEREAS, on April 28, 2020, the Monterey County Public Health Officer ("County Public Health Officer") issued an Order requiring members of the public and workers to wear face coverings subject to certain exceptions; and

WHEREAS, on May 4, 2020, Governor Gavin Newsom issued Executive Order N-60-20 which directed all residents to continue to obey State public health directives; and

WHEREAS, on June 29, 2020, the California State Department of Public Health issued a Guidance for the Use of Face Coverings; and

WHEREAS, on July 13, 2020, the State Public Health Officer ordered that the guidance mandating the wearing of face coverings shall continue to apply statewide, except as specifically permitted in other orders or guidance documents; and

WHEREAS, on July 14, 2020, the federal Centers for Disease Control and Prevention ("CDC") called on Americans to wear masks to prevent COVID-19 spread; and

WHEREAS, the CDC has confirmed 4,339,997 cases of individuals in the United States who have severe respiratory illness caused by COVID-19, as well as 148,866 deaths caused by the illness as of July 27, 2020 ; and

WHEREAS, Governor Gavin Newsom has issued multiple Executive Orders due to COVID-19 which have significantly impacted individuals and the operations of businesses and local governments; and

WHEREAS, both the State Public Health Officer and County Public Health Officer have issued multiple Orders and directives due to COVID-19 which have significantly impacted individuals and the operations of businesses and local governments; and

WHEREAS, Cal. Health & Safety Code Section 120155 authorizes the City's police officers to enforce orders of the State Public Health Officer issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease; and

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WHEREAS, Health & Safety Code Section 101029 authorizes the City's police officers to enforce orders of the County Public Health Officer issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease and Government Code Section 41601 further authorizes the City's Chief of Police to enforce local health orders to prevent the spread of disease; and

WHEREAS, the COVID-19 pandemic continues to spread rapidly worldwide and in the U.S., presenting an immediate and significant risk to public health and safety, and resulting in serious illness or death to vulnerable populations, including the elderly and those with underlying health conditions, and

WHEREAS, according to the Monterey County Office of Emergency Services, there have been 4,288 confirmed cases of COVID-19 among Monterey County residents as of July 27, 2020, representing an increase of 206 confirmed cases over just two days; and

WHEREAS, heightened levels of public health and safety planning and preparedness have been necessary to respond to confirmed cases of COVID-19 in the County of Monterey, requiring a rapid response not lending itself to otherwise applicable notice and approval timelines to mitigate against the spread of COVID-19 and its resulting public health and safety impacts; and

WHEREAS, in the absence of such actions, County wide health services may become overwhelmed and unable to keep up with medical demand for care and availability of hospital or care facility capacity; and

WHEREAS, this Urgency Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, sections: 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); 15060(c)(3) (the activity is not a project as defined in Section 15378); and 15061(b)(3), because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment; and

WHEREAS, based upon the foregoing, the City Council finds pursuant to Government Code Section 36937(b) that this Urgency Ordinance is necessary for the immediate preservation of the public peace, health and safety.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAND CITY DOES ORDAIN AS FOLLOWS:

Section 1. Incorporation of Findings. The City Council of the City of Sand City incorporates the findings in the whereas clauses above by reference as though fully set forth here.

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Section 2. Codification. This Ordinance shall not be codified in the Sand City Municipal Code.

Section 3. Authority Pursuant to Applicable Law. Pursuant to California Government Code Section 8610, and Sand City Municipal Code Chapter 2.12, the City, while in a state of emergency proclaimed by the Director of Emergency Services and ratified by the City Council, may establish rules and regulations for dealing with the local emergency. The City Council finds and determines that it has the authority to enact this Urgency Ordinance pursuant to all applicable laws including, but not limited to, the California Emergency Services Act, the Sand City Municipal Code, the declaration of local emergency issued by the City Council on March 17, 2020, Government Code Section 36937 (b) and the Findings set forth herein.

Section 4. Local Emergency. A local emergency continues to exist throughout the City, and the City has been undertaking, and will continue through the cessation of this emergency to undertake, necessary measures and incur necessary costs, which are directly related to the prevention of the spread of the COVID-19 virus and are taken in furtherance of: the Governor's Proclamation of a State of Emergency on March 4, 2020; the President of the United States' Declaration of a National Emergency on March 13, 2020; the City Council Resolution SC 20-20 declaring the existence of a local emergency within the City due to COVID 19, the Orders issued by the Governor, State Public Health Officer and the County Public Health Officer due to COVID 19 and all applicable laws.

Section 5. Powers of City Director of Emergency Services. During the existence of the local emergency due to COVID-19, the powers, functions, and duties of the City Director of Emergency Services shall be those prescribed by state law, and ordinances and resolutions of this City, notwithstanding otherwise applicable procedures, timelines or methods of action and the City Director of Emergency Services is expressly authorized to take any and all actions in furtherance of emergency powers to address the local emergency.

Section 6. Orders Enforceable. The Orders issued by the Governor, State Public Health Officer and the County Public Health Officer due to COVID-19 as currently in effect, or as subsequently amended, are hereby expressly acknowledged and declared to be enforceable within the City and violations of such Orders are hereby deemed to be a violation of City Municipal Code and enforceable under SCMC Chapter 1.16 as if directly enacted by the City Council or as otherwise allowed by law.

Section 7. Authorization of Citations Issuance. Pursuant to California Penal Code § 836.5, the City Director of Emergency Services is hereby authorized to direct Sand City public officers or employees to issue citations following the procedures set forth in SCMC Chapter 1.16, California Penal Code §§ 853.5 through 853.6a, or such other procedures as the State of California may subsequently enact for violations of this

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Urgency Ordinance and violations of any section of the Sand City Municipal Code or violation of any City ordinance.

Section 8. Authorization of City Director of Emergency Services. The City Director of Emergency Services and his/her designee(s) are hereby authorized to take all necessary action to implement and enforce this Urgency Ordinance.

Section 9: Severability. If any section, subsection, sentence, clause, or phrase of this Urgency Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Urgency Ordinance. The City Council declares that it would have passed this Urgency Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this Urgency Ordinance would be subsequently declared invalid or unconstitutional.


Section 10: Effective Date and Duration. This Urgency Ordinance enacted under California Government Code Section 36937 will take effect immediately upon adoption by a four fifths (4/5) vote of the City Council. This Urgency Ordinance will remain in effect until the Governor's Proclamation of a State of Emergency is lifted or until rescinded by the City Council, whichever occurs first.

Section 11: Publication. The City Clerk is directed to certify this Urgency Ordinance and cause it to be published in the manner required by law.

PASSED AND ADOPTED by the City Council of the City of Sand City this 4th, day of August, 2020, by the following vote:


AYES: Council Members Blackwelder, Carbone, Cruz, Hawthorne, Sofer
NOES: None
ABSENT : None
ABSTAIN: None

APPROVED:



Mary Ann Carbone
Mayor

ATTEST:



Connie Horca
Acting City Clerk