

COUNTY OF SANTA BARBARA  
DIRECTOR OF EMERGENCY SERVICES  
EMERGENCY RULE #2 FOR THE COVID-19 EMERGENCY, TEMPORARILY  
SUSPENDING COUNTY CODE CHAPTER 35 ZONING REGULATIONS AND ZONING  
PERMIT RESTRICTIONS, INCLUDING CONDITIONS OF APPROVAL, ON WINERIES  
AND WINE TASTING ROOMS SERVING FOOD, AS LONG AS COMPLIANT WITH  
STATE LAWS REGULATING RETAIL FOOD AND ALCOHOL AND STATE AND LOCAL  
DIRECTIVES REGARDING REOPENING OF BUSINESSES  
SANTA BARBARA COUNTY CODE CHAPTER 12-5(b)(1)

Pursuant to Santa Barbara County Chapter 12-5(b)(1), the County of Santa Barbara Director of Emergency Services issues the following Emergency Rule #2 for the COVID-19 Emergency:

**Emergency Rule #2 Temporarily Suspending County Code Chapter 35 Zoning Regulations and Permit Restrictions, Including Conditions of Approval, on Wineries and Wine Tasting Rooms Serving Food, As Long as Compliant with State Laws Regulating Retail Food and Alcohol and State and Local Directives Regarding Reopening of Businesses:** This Emergency Rule #2 for the COVID-19 Emergency -- hereafter, "Emergency Rule #2" -- temporarily suspends Chapter 35 permit restrictions, including conditions of approval, and any zoning development standards or regulations that otherwise prohibit or limit wineries and wine tasting rooms from serving food. With this temporary suspension of restrictions, Emergency Rule #2 will authorize wineries and wine tasting rooms to serve food during the COVID-19 emergency, as long as wineries and wine tasting rooms are compliant with state laws regulating retail food, alcohol, and all alcohol licensing and all local directives regarding reopening of businesses during the COVID-19 pandemic response, including certification or attestation and COVID-19 protection plan.

**Effective Date and Termination:** This Emergency Rule #2 shall take effect and be in full force immediately and shall remain in effect until: 1) December 16, 2020; or 2) the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated; or 3) superseded by the adoption of amendments to the County zoning ordinances by the Board of Supervisors, whichever is earlier. This Emergency Rule #2 will be recommended to the County of Santa Barbara's Board of Supervisors for their confirmation at the next regular meeting of the Board of Supervisors. This rule may be superseded by action of the Board of Supervisors.

**Future Zoning Code Amendment Recommendations:** The County of Santa Barbara Planning and Development Department will present recommended Zoning Code amendments to the Planning Commission and the Board of Supervisors during June 2020.

**Emergency Rule #2's Purpose and Findings:** This Emergency Rule #2 is ordered pursuant to California Government Code Sections 8634 and Santa Barbara County Code Chapter 12-5(b)(1).

Purpose: In order to minimize the economic impacts of COVID-19, the County of Santa Barbara must encourage the speedy recovery of businesses, restaurants, retail, and other community entities that were required to close or curtail operations under the State of California's "Stay At Home" orders. The purpose of this Emergency Rule #2 is to continue implementation of the

County's Reopening in a Safe Environment (RISE) Small Business & Community Partnership Enhancement Program (SBCPEP) by providing a clear, quick path for wineries and wine tasting rooms to begin serving food, in order to be authorized to begin reopening and resuming operations in Stage 2 of Governor Newsom's four-stage COVID-19 pandemic Resilience Roadmap. This, in conjunction with Emergency Rule #1, will allow wineries and wine tasting rooms to reopen in Stage 2, while still providing for social distancing. Emergency Rule #2 temporarily suspends Chapter 35 permit restrictions, including conditions of approval, and any zoning development standards or regulations that otherwise prohibit or limit wineries and wine tasting rooms from serving food. With this suspension of restrictions, Emergency Rule #2 will authorize wineries and wine tasting rooms to serve food during the COVID-19 emergency, as long as wineries and wine tasting rooms are compliant with state laws regulating retail food, alcohol, and alcohol licensing and State and local directives regarding reopening of businesses during the COVID-19 pandemic response, including certification or attestation and COVID-19 protection plan.

Findings: Emergency Rule #2 is necessary to protect life, property, or environment and for the immediate preservation of the public peace, health and safety and to preserve social distancing requirements to slow the spread of the COVID-19 virus while business and community entities, including wineries and wine tasting rooms, reopen. This Emergency Rule #2 is based upon the following declaration of facts constituting the urgency:

1. Section 12-5(a) of the Santa Barbara County Code, empowers the County of Santa Barbara, Director of Emergency Services, to proclaim a local emergency if the Board of Supervisors is not in session; and
2. Section 8558(c) of the Government Code defines a "Local Emergency" as: "the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat"; and
3. A novel coronavirus, COVID-19, causes infectious disease and was first detected in Wuhan City, Hubei Province, China in December 2019. Symptoms of COVID-19 include fever, cough, and shortness of breath; outcomes have ranged from mild to severe illness, and in some cases death. The Centers for Disease Control and Prevention considers the virus to be a very serious public health threat; and
4. On March 4, 2020, Governor Newsom declared a state of emergency related to conditions caused by COVID-19; and on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

5. On March 12, 2020, the Director of Emergency Services proclaimed a local emergency related to COVID-19 pursuant to Government Code Section 8550 *et seq.* and Chapter 12, Section 12-5(a) of the Santa Barbara County Code. The Board of Supervisors ratified this proclamation on March 17, 2020; and
6. On March 12, 2020, the Health Officer of the County of Santa Barbara determined that there is an imminent and proximate threat to public health from the introduction of COVID-19 in the County of Santa Barbara, and proclaimed a Local Health Emergency as a result. The Board of Supervisors ratified this proclamation on March 17, 2020; and
7. In direct response to the lack of healthcare infrastructure, governments across the nation are taking actions to slow the spread of COVID-19 in order to “flatten the curve” of infection and reduce the numbers of individuals infected at any one time by minimizing situations where the virus can spread; and
8. In furtherance of this effort, on March 19, 2020, Governor Newsom issued Executive Order N-33-20, requiring all persons residing in the State to remain in their homes or places of residence, except as needed to maintain the continuity of operations for critical infrastructure (the “State Stay-at-Home Order”); and
9. On March 19, 2020, the State Public Health Officer ordered all individuals living in the State of California to stay home or at their place of residence, except as needed to maintain continuity of operations for the federal critical infrastructure sectors; and
10. On May 8, 2020, Governor Newsom’s Office released a four-stage COVID-19 pandemic response plan for beginning to reopen businesses and community entities in the State of California and declared California to be in Stage 2 of its response; and
11. Stage 2 of California’s COVID-19 pandemic response plan allows for gradual reopening of retail starting with low risk sectors such as curbside retail, manufacturing, and logistics. Later in Stage 2, there are to be relaxed retail restrictions and reopening of schools, offices, and limited hospitality and personal services; and
12. Stage 3 of California’s COVID-19 pandemic response plan contemplates reopening of higher-risk workplaces; and
13. On May 4, 2020, Governor Newsom issued Executive Order N-60-20 to allow a County to pursue a variance to move further into Stage 2 upon notification and certification through submission of a written attestation to the California Department of Public Health Office; and
14. On May 20, 2020, the California Department of Public Health Office approved and posted to the State’s website the County of Santa Barbara’s Variance Attestation allowing the County to move further into Stage Two to include dine-in restaurants and retail; and

15. On May 21, 2020, the Health Officer of the County of Santa Barbara issued a Health Officer Order to provide guidance on the reopening of lower-risk businesses. In that order, essential and lower-risk businesses that may open or remain open are identified and required to implement social distancing when in operation; and
16. The Director of Emergency Services finds that as businesses and community entities start to reopen pursuant to State and local laws and guidance, there may be a need to temporarily suspend some local regulations to allow for adequate social distancing when local businesses and community entities reopen; and
17. The Director of Emergency Services now finds that it is appropriate to temporarily suspend Chapter 35 permit restrictions, including conditions of approval, and any zoning development standards or regulations that otherwise prohibit or limit wineries and wine tasting rooms from serving food. With this temporary suspension of restrictions, Emergency Rule #2 will authorize wineries and wine tasting rooms to serve food during the COVID-19 emergency, as long as wineries and wine tasting rooms are compliant with state laws regulating retail food, alcohol, and all alcohol licensing and all local directives regarding reopening of businesses during the COVID-19 pandemic response, including certification or attestation and COVID-19 protection plan; and
18. Emergency Rule #2 is based on evidence of increasing transmission of COVID-19 both within the County and worldwide, scientific evidence regarding the most effective approach to slow transmission of communicable diseases generally and COVID-19 specifically, as well as best practices as currently known and available to protect the public from the risk of spread of or exposure to COVID-19; and
19. Emergency Rule #2 is promulgated due to the propensity of the virus to spread person to person and also because the virus is causing property loss due to its proclivity to attach to surfaces for prolonged periods of time; and
20. Emergency Rule #2 is intended to reduce the likelihood of exposure to COVID-19, thereby slowing the spread of COVID-19 in the County of Santa Barbara and communities worldwide. As the presence of infected individuals increases, the difficulty and magnitude of tracing individuals who may have been exposed rises exponentially; and
21. Emergency Rule #2 is issued in accordance with, and incorporates by reference: the March 4, 2020 Proclamation of a State Emergency issued by Governor Gavin Newsom; the March 12, 2020 Declaration of Local Health Emergency and Proclamation of Emergency based on an imminent and proximate threat to public health from the introduction of novel COVID-19 in the County; the March 17, 2020 Resolution of the Board of Supervisors ratifying the County Declaration of Local Health Emergency and Proclamation of Emergency regarding COVID-19; the guidance issued on March 11, 2020 by the California Department of Public Health regarding large gatherings of 250 people or more; the March 13, 2020 Presidential Declaration of a National Emergency due to the national impacts of COVID-19; the guidance issued on March 15, 2020 by the Centers for Disease Control and Prevention, the California Department of Public Health, and other public health officials through the United

States and around the world recommending the cancellation of gatherings involving more than fifty (50) or more persons in a single space at the same time; the March 16, 2020 order of the State Public Health Officer prohibiting all gatherings with expected presence above ten (10) individuals; Governor Newsom’s Executive Order N-33-20 of March 19, 2020 ordering all persons to stay at home to protect the health and well-being of all Californians and to establish consistency across the state in order to slow the spread of COVID-19; the March 22, 2020, Presidential Declaration of a Major Disaster in California beginning on January 20, 2020 under Federal Emergency Management Agency (FEMA) Incident DR-4482-CA; and the May 8, 2020 order of the County of Santa Barbara Health Officer requiring social distancing and not gathering in groups; and

22. Emergency Rule #2 is necessary for the immediate preservation of the public peace, health and safety and in accordance with Government Code Sections 8634 and Santa Barbara County Chapter 12-5(b)(1), these conditions warrant and necessitate that the County adopt this emergency rule to protect the health, safety, and welfare of the residents in the unincorporated area of Santa Barbara County.

**Definitions:** For purposes of this emergency rule, the following words and phrases shall have the meanings ascribed to them by this rule:

- a) “Winery” shall mean a bonded agricultural processing facility primarily used for the commercial processing of grapes or other fruit products to produce wine or similar spirits or the refermenting of still wine into sparkling wine. Processing consists of controlled fermentation combined with any of the following: crushing, blending, barrel aging, and bottling. Storage of case goods shall only occur in conjunction with processing. Retail sales and tasting of wine and retail sales of related promotional items may be allowed as part of the winery operation.
- b) “Wine tasting room” shall mean a room or rooms, open to the general public, primarily used for the retail marketing of winery products. Merchandise offered for sale within the tasting room may also include souvenirs and clothing bearing the logo of the winery, as well as wine related items and other products that reflect or enhance the character or theme of the winery. A room or rooms where wine tasting occurs, where wine tasting is part of the normal business practice in the wholesale marketing of winery products and not open to the public is not considered a tasting room.
- c) “Department” shall mean Santa Barbara County Planning and Development.
- d) “Director” shall mean the Director of Planning and Development or his/her designee.

**Authorization:** Emergency Rule #2 temporarily suspends Chapter 35 permit restrictions, including conditions of approval, and any zoning development standards or regulations that otherwise prohibit or limit and wine tasting rooms from serving food.

With this temporary suspension of restrictions, Emergency Rule #2 will authorize wineries and wine tasting rooms to serve food during the COVID-19 emergency, as long as wineries and wine

tasting rooms are compliant with state laws regulating retail food, alcohol, and all alcohol licensing and all local directives regarding reopening of businesses during the COVID-19 pandemic response, including certification or attestation and COVID-19 protection plan.

Emergency Rule #2 does not allow the expansion of the winery or wine tasting room's capacity or allow expanded operations, other than food service.

**State and local directives regarding reopening:** The owner and/or operator of all wineries and wine tasting rooms must follow all State and local directives regarding reopening of businesses or community entities during the COVID-19 pandemic response, including certification or attestation and COVID-19 protection plan.


**Regulation of Alcoholic Beverages and Food Service During COVID-19 Pandemic Response:** The service of alcoholic beverages along with food services shall be allowed to the extent that service is allowed by the California Department of Alcoholic Beverage Control and in compliance with its current orders, rules, and regulations.

**Enforcement:** All enforcement of Chapter 35 zoning ordinances by the Director and the Department will continue consistent with existing provisions of Chapter 35.

**Severability:** If any provision of this rule or application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions of this rule which can be given effect without the invalid provision or application. To this end, the provisions of this rule are severable. The Emergency Services Director hereby declares that she would have adopted this rule irrespective of the invalidity of any particular portion thereof.

Except as amended by this rule, the Santa Barbara County Code shall remain unchanged and shall continue in full force and effect.

MONA MIYASATO, COUNTY EXECUTIVE OFFICER

By   
Director of Emergency Services

Date 5-25-20