

TOWN OF SEABROOK ISLAND

EMERGENCY ORDINANCE NO. 2020-01

ADOPTED 4/1/2020

AN EMERGENCY ORDINANCE TO ADOPT THE PROVISIONS OF THE MAYOR'S EXECUTIVE ORDER NOS. 2020-01 AND 2020-02; TO ADOPT EMERGENCY PROVISIONS RELATED TO CERTAIN TYPES OF BUSINESS ESTABLISHMENTS; TO ADOPT EMERGENCY PROVISIONS RELATED TO SHORT-TERM RENTAL UNITS; TO ADOPT EMERGENCY PROVISIONS RELATED TO TOWN MEETINGS; TO ADOPT EMERGENCY PROVISIONS RELATED TO TEMPORARY USE PERMITS; TO PROVIDE FOR ENFORCEMENT AND PENALTIES OF EMERGENCY PROVISIONS; AND OTHER MATTERS RELATED THERETO

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing 2019 Novel Coronavirus ("COVID-19") outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia, pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5207 ("Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States also declared that the COVID-19 pandemic in the United States constitutes a national emergency, pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. §§ 1601 et seq., and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), retroactive to March 1, 2020; and

WHEREAS, on March 13, 2020, the Governor of the State of South Carolina issued Executive Order No. 2020-08, declaring a State of Emergency based on a determination that COVID-19 posed an imminent public health emergency for the State of South Carolina; and

WHEREAS, the Governor of the State of South Carolina subsequently issued Executive Order Nos. 2020-09, 2020-10, 2020-11, 2020-12, 2020-13, and 2020-14, initiating and directing various emergency measures to address the significant public health, economic, and other impacts associated with COVID-19 and to mitigate the resulting burdens on healthcare providers, individuals, and businesses in the State of South Carolina; and

WHEREAS, on March 28, 2020, the Governor of the State of South Carolina issued Executive Order No. 2020-15, declaring a new, separate, and distinct State of Emergency based on a determination that COVID-19 posed an actual, ongoing, and evolving public health threat to the State of South Carolina; and

WHEREAS, on March 30, 2020, the Governor of the State of South Carolina issued Executive Order No. 2020-16, ordering the immediate closure of any and all public beach access points, public piers, docks, wharfs, boat ramps, and boat landings providing public access to the public waters of this State, to include any adjacent or associated public parking lots or other public facilities, for recreational purposes for the duration of the State of Emergency; and

WHEREAS, on March 31, 2020, the Governor of the State of South Carolina issued Executive Order No. 2020-17, ordering the temporary closure of certain types of business establishments, including entertainment venues, athletic facilities and activities, and close-contact service providers, effective April 1, 2020, within the State of South Carolina; and

WHEREAS, on March 17, 2020, the Mayor of the Town of Seabrook Island declared a State of Emergency to exist within the Town of Seabrook Island, South Carolina ("Town") to enable actions required to alleviate effects of the COVID-19 public health emergency; and

WHEREAS, on March 26, 2020, the Mayor of the Town of Seabrook Island issued Executive Order No. 2020-01, which prohibits gatherings of more than ten people while outside their homes, requires people within groups of ten or fewer people to practice "social distancing" by maintaining a minimum separation of six feet between individuals, and authorizes the Town's Code Enforcement Officers to cooperate with state and local law enforcement officers to disperse groups of three or more individuals if the Officer believes the group creates a threat to public health; and

WHEREAS, on March 30, 2020, the Mayor of the Town of Seabrook Island issued Executive Order No. 2020-02, which requires individuals entering the town who have traveled to or from locations in the States of Connecticut, New Jersey, New York, and the City of New Orleans, as well as those countries designated by the CDC as subject to a "Level 3 Travel Notice," must isolate or self-quarantine for 14 days, or for the duration of the individual's stay in the town; and

WHEREAS, on March 16, 2020, the President of the United States issued the "President's Coronavirus Guidelines for America" which advised Americans to "avoid discretionary travel"; and

WHEREAS, the U.S. Centers for Disease Control and Prevention has stated that individuals aged 65 years and older are at "high risk for severe illness from COVID-19"; and

WHEREAS, according the most recent estimates published by the U.S. Census Bureau in 2017, the median age of all residents within the Town is 67.2 years, and 58.9 % of residents in the Town are 65 years of age or older; and

WHEREAS, pursuant to Sec. 5-7-250(d) of the S.C. Code of Laws, 1976, as amended: "To meet public emergencies affecting life, health, safety or the property of the people, council may adopt emergency ordinances; but such ordinances shall not levy taxes, grant, renew or extend a franchise or impose or change a service rate. Every emergency ordinance shall be enacted by the affirmative vote of at least two-thirds of the members of council present. An emergency ordinance is effective immediately upon its enactment without regard to any reading, public hearing, publication requirements, or public notice requirements," and

WHEREAS, the Mayor and Council of the Town of Seabrook Island have determined that the emergency provisions contained herein are necessary and proper to protect the life, health, safety and property of residents of the Town of Seabrook Island against the threat posed by COVID-19, as demonstrated by the various orders and declarations set forth above, and further, the provisions contained herein do not levy taxes; grant, renew or extend a franchise; or impose or change a service rate;

NOW, THEREFORE, pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, **BE IT ORDAINED BY THE MAYOR AND COUNCIL FOR THE TOWN OF SEABROOK ISLAND:**

SECTION 1. Adoption of Mayor's Executive Orders

- (a) The provisions of Executive Order No. 2020-01, which was issued by the Mayor of the Town of Seabrook Island on March 26, 2020, are hereby adopted by reference as if fully set forth herein.
- (b) The provisions of Executive Order No. 2020-02, which was issued by the Mayor of the Town of Seabrook Island on March 30, 2020, are hereby adopted by reference as if fully set forth herein.

SECTION 2. Emergency Provisions Related to Certain Types of Business Establishments

- (a) Pursuant to Executive Order No. 2020-17, which was issued by the Governor of the State of South Carolina on March 31, 2020, effective Wednesday, April 1, 2020, at 5:00 pm, the following "non-essential" businesses, venues, facilities, services, and activities shall be closed to non-employees and shall not be open for access or use by the public—to include members, if access or use is ordinarily restricted to or based on membership—or shall not take place, as applicable:

(1) Entertainment venues and facilities as follows:

- a. Night clubs
- b. Bowling alleys
- c. Arcades
- d. Concert venues
- e. Theaters, auditoriums, and performing arts centers
- f. Tourist attractions (including museums, aquariums, and planetariums)
- g. Racetracks
- h. Indoor children's play areas, with the exception of licensed childcare facilities
- i. Adult entertainment venues
- j. Bingo halls
- k. Venues operated by social clubs

(2) Recreational and athletic facilities and activities as follows:

- a. Fitness and exercise centers and commercial gyms
- b. Spas and public or commercial swimming pools
- c. Group exercise facilities, to include yoga, barre, and spin studios or facilities
- d. Spectator sports

- e. Sports that involve interaction in close proximity to and within less than six (6) feet of another person
- f. Activities that require the use of shared sporting apparatus and equipment
- g. Activities on commercial or public playground equipment

(3) Close-contact service providers as follows:

- a. Barber shops
- b. Hair salons
- c. Waxing salons
- d. Threading salons
- e. Nail salons and spas
- f. Body-art facilities and tattoo services
- g. Tanning salons
- h. Massage-therapy establishments and massage services

(b) An individual or entity may submit requests for clarification or a determination regarding the applicability of Executive Order No. 2020-17 to a specific business, venue, facility, service, or activity pursuant to the provisions outlined in Executive Order No. 2020-17.

(c) Notwithstanding the foregoing, any and all businesses, venues, facilities, services, and activities in the Town are urged to facilitate effective “social distancing” practices. As applicable and to the maximum extent possible, to further promote “social distancing,” facilitate self-isolation, and otherwise prevent potential exposure to COVID-19, businesses and organizations are also encouraged to utilize telecommuting or work-from-home options for employees and to provide alternate means of purchasing and delivering products and services, to include online or telephone orders and curbside or off-site deliveries, and individuals are encouraged to utilize such options to support businesses in the Town during the ongoing public health emergency.

SECTION 3. Emergency Provisions Related to Short-Term Rental Units

(a) The following requirements shall apply to any dwelling unit or property that is rented, or offered for rent, to any individual or group of individuals, for temporary occupancy for a period not to exceed twenty-eight (28) days (hereafter “Short-Term Rental Units”):

(1) No rental guests shall be permitted to “check-in” or otherwise occupy a Short-Term Rental Unit between 12:01 am on April 5, 2020, and 11:59 pm on April 30, 2020.

(2) Rental guests who are currently occupying any rental property in the Town (including, but not limited to, Short-Term Rental Units) as of the effective date

of this Ordinance may remain in that unit until the expiration of their existing rental agreement. Existing rental agreements shall not be renewed or extended following the effective date of this Ordinance; provided, however, rental guests whose existing agreement commenced on or before March 15, 2020, and who have continuously occupied that rental unit since March 15, 2020, may:

- a. Extend their existing rental agreement for additional periods to remain within that unit; or
 - b. Enter into a new rental agreement for an alternate rental unit within the town as long as the rental guest occupies the alternate unit on the same day they vacate the original rental unit.
- (3) Owners and managers of all Short-Term Rental Units within the Town are prohibited from accepting new reservations for stays commencing between April 2, 2020, and April 30, 2020.
- (4) Owners, managers and anyone else involved in the advertising of a Short-Term Rental Unit within the Town are prohibited from advertising the Short-Term Rental Unit's availability between April 2, 2020, and April 30, 2020. As part of this prohibition, any online booking calendars for such units, where provided, shall indicate that the unit is not available from April 2, 2020, through April 30, 2020.
- (5) The Town Administrator shall be authorized to grant a reasonable accommodation from the restrictions contained herein in the following circumstances:
- a. Any resident who can demonstrate the need for a non-resident caregiver due to illness or disability; and
 - b. Any owner of real property within the town, including members of that property owner's immediate family, who is/are occupying a Short-Term Rental Unit on a temporary basis during construction of a new home, or renovation or repair of an existing home, on the owner's property within the Town.
- (6) The provisions of this section shall not apply to members of the property owner's immediate family.
- (7) For the purpose of this section, the term "immediate family" shall be defined as a parent; sibling; child by blood, adoption, or marriage; spouse; grandparent or grandchild.

- (b) The owner or manager of any Short-Term Rental Unit which is found guilty of violating any provision contained herein may, in addition to the Penalties referenced under Section 6 of this Ordinance, have his or her Business License revoked or suspended.

SECTION 4. Emergency Provisions Related to Town Meetings

- (a) All meetings of the Town Council, Ways and Means Committee, Planning Commission, Board of Zoning Appeals, DSO Advisory Committee, Public Safety Committee and Utility Commission are hereby cancelled through April 30, 2020. Special or emergency meetings may be called on an as-needed basis and may be conducted via teleconference, as provided in subsection (b) below.
- (b) Section 2-92 of the Town Code is hereby amended to read as follows: "Provided a quorum is present either in person or by electronic means, the mayor and/or any member of town council may participate in and cast votes via telephone, audio or video conference link provided that the member attending remotely is able to both hear the meeting and what is transpiring and that his/her comments and vote may be heard by those attending the meeting. If an executive session is called, only those allowed in the executive session by South Carolina law should be able to hear and be heard by the person attending the meeting remotely. To the extent possible, any eligible person who needs to attend such meetings remotely shall notify the mayor or town administrator in advance to the extent practical."

SECTION 5. Emergency Provisions Related to Temporary Use Permits

- (a) All temporary use permits for events and activities taking place between the effective date of this Ordinance and May 31, 2020, are hereby repealed.
- (b) The Zoning Administrator shall not issue any new temporary use permits for events and activities taking place between the effective date of this Ordinance and May 31, 2020.

SECTION 6. Enforcement and Penalties.

- (a) All Code Enforcement Officers of the Town, whether engaged solely as a Code Enforcement Officer or otherwise engaged and duly commissioned by the Town as a Code Enforcement Officer, shall be authorized to enforce this Ordinance and shall, to the extent permissible under applicable law, cooperate with law enforcement officers of the State of South Carolina, or of any political subdivision thereof, in their enforcement of this Ordinance and any Executive Order issued by the Governor of the State of South Carolina.
- (b) Violations of this Ordinance shall be punishable in accordance with the provisions of Sections 1-7 and 2-27 of the Town Code for the Town of Seabrook Island.

SECTION 7. No Creation of Individual Rights, Privileges or Benefits

- (a) This Ordinance is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the Town its agencies, departments or other entities, or any officers, employees, or agents thereof, or any other person.

SECTION 8. Severability.

If any section, subsection, paragraph, clause, or provision of this ordinance shall be deemed to be unconstitutional, unenforceable, or otherwise invalid by the final decision of a court of competent jurisdiction, it shall be construed to have been the legislative intent of Town Council to pass said ordinance without such unconstitutional provision, and the validity of all remaining sections, subsections, paragraphs, clauses, or provisions of said ordinance shall not be affected thereby. If said ordinance, or any provision thereof, is held by the final decision of a court of competent jurisdiction to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

SECTION 9. Conflicting Ordinances Suspended.

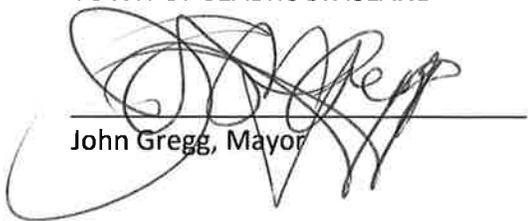
All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby suspended.

SECTION 10. Effective Date.

This emergency ordinance shall be effective immediately upon enactment and shall expire automatically on the sixty-first day following the date of enactment.

SIGNED AND SEALED this 1st day of April, 2020, having been duly adopted by the Town Council for the Town of Seabrook Island on the 1st day of April, 2020.

TOWN OF SEABROOK ISLAND



John Gregg, Mayor

ATTEST



Faye Allbritton, Town Clerk