

TOWN OF SEABROOK ISLAND

EMERGENCY ORDINANCE NO. 2020-02

ADOPTED _____

AN EMERGENCY ORDINANCE TO EXTEND REQUIREMENTS RELATED TO SOCIAL DISTANCING AND GROUP CONGREGATIONS; TO MODIFY THE REQUIREMENTS FOR CERTAIN BUSINESSES; TO EXTEND THE PROHIBITION ON TEMPORARY USE PERMITS; TO EXTEND THE EXPIRATION DATE FOR ACTIVE BUILDING PERMITS; 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. 55 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. 55 1601 et seq., and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. 5 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 confirming the effectiveness of his Executive Order Nos. 2020-09, 2020-10, 2020-11, 2020-12, 2020-13 and 2020-14; 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 April 3, 2020, the Governor of the State of South Carolina issued Executive Order No. 2020-18, ordering that certain "non-essential" businesses, venues, facilities, services and

activities shall remain closed in accordance with his Executive Order 2020-17 and ordering, effective at 5:00 pm on April 6, 2020, temporary closure of additional “non-essential” businesses, venues, facilities, services and activities, identified as certain Retail Stores, to non-employees and cessation of access or use by the public of those Retail Stores; and

WHEREAS, on April 6, 2020, the Governor of the State of South Carolina issued Executive Order No. 2020-21, ordering that all residents and visitors of the State of South Carolina limit social interaction, practice “social distancing” in accordance with CDC guidance, and limit their movements outside of their home, place of residence or current place of abode except for purposes of engaging in Essential Business, Essential Activities, or Critical Infrastructure Operations as specified in that order; and

WHEREAS, on April 12, 2020, the Governor of the State of South Carolina issued Executive Order No. 2020-23, declaring a new State of Emergency in South Carolina and confirming the continued effectiveness of the provisions of his Executive Orders including his Executive Orders Nos. 2020-09, 2020-10, 2020-11, 2020-12, 2020-13, 2020-14, 2020-16, 2020-18 and 2020-21; and

WHEREAS, on April 20, 2020, the Governor of the State of South Carolina issued Executive Order No. 2020-28, modifying his Executive Order 2020-21 to allow reopening as of 5:00 pm on April 20, 2020 of those Retail Stores comprising “non-essential” businesses in accordance with certain emergency rules and restrictions set forth in that Executive Order; and

WHEREAS, on April 27, 2020, the Governor of South Carolina issued Executive Order No. 2020-29 (“Executive Order 2020-29”), declaring a State of Emergency in response to the ongoing COVID-19 pandemic and different, additional and intensifying threats attributed thereto and confirming the continued effectiveness of certain provisions of his previously issued Executive Orders including his Executive Orders 2020-10, 2020-18, and 2020-21; and

WHEREAS, on May 1, 2020, the Governor of South Carolina issued Executive Order No. 2020-30 (“Executive Order 2020-30”), rescinding: a) his Executive Order 2020-14 as modified, amended and extended ending the requirement for persons entering the State of South Carolina from areas with substantial community spread to isolate or self-quarantine for the shorter of a period of fourteen days from the time of entry into the State of South Carolina or for the duration of their presence in South Carolina; and, b) his Executive Order 2020-19 prohibiting making or accepting of new reservations or bookings for short-term rentals, vacation rentals, or other lodging accommodations from or for individuals residing in or travelling from any area subject to or identified in a CDC travel advisory or other CDC notice as a location with extensive community transmission of COVID-19; and

WHEREAS, on May 1, 2020, the Governor of South Carolina issued Executive Order No. 2020-31 modifying his Executive Order 2020-21 so as to encourage rather than mandate restriction of movements of residents and visitors of the State of South Carolina outside of their home, place of residence, or current place of abode except for purposes of engaging in Essential Business, Essential Activities, or Critical Infrastructure Operations; and

WHEREAS, on May 10, 2020, the Governor of South Carolina issued Executive Order No. 2020-34 modifying: a) his Executive Order 2020-10 so as to authorize Restaurants, as defined in Executive Order 2020-10, to provide services for limited indoor, on premises customer dining commencing on May 11, 2020 in accordance with guidelines established by the South Carolina Restaurant and Lodging Association and in accordance with applicable sanitation guidelines promulgated by CDC or South Carolina Department of Health and Environment ("SCDHEC"); and, b) his Executive Order 2020-16, as amended and modified, to rescind restrictions on beaching or rafting of boats, whether on a sandbar, lakeshore, riverbank, or island and to rescind the requirement that vessels must remain underway at all times; and

WHEREAS, on May 12, 2020, the Governor of South Carolina issued Executive Order No. 2020-35 declaring that a State of Emergency exists in South Carolina and confirming the continued effect of his Executive Orders 2020-10, 2020-18, 2020-21, 2020-28, 2020-30, 2020-31 and 2020-34, among other of his Executive Orders; and

WHEREAS, on May 15, 2020, the Governor of South Carolina issued Executive Order No. 2020-36 modifying provisions of his Executive Order 2020-18 as amended by his Executive Orders Nos. 2020-28, 2020-31 and 2020-36 and as extended by his Executive Order 2020-35 to authorize certain business identified in Executive Order 2020-36 to re-open to non-employees and for access or use by the public effective May 18, 2020 at 12:01 am; and

WHEREAS, on May 21, 2020, the Governor of South Carolina issued Executive Order No. 2020-37 modifying provisions of his Executive Order 2020-18 as amended by his Executive Orders Nos. 2020-28 and 2020-31 and as extended by his Executive Order 2020-35 to authorize certain business identified in Executive Order 2020-36 to re-open to non-employees and for access or use by the public effective May 22, 2020 at 12:01 am; 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 in furtherance of Executive Order 2020-14 of the Governor of South Carolina, 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 April 6, 2020, the Mayor of the Town of Seabrook Island issued Executive Order No. 2020-03, prohibiting the making or accepting of certain new reservations or bookings for lodging accommodations in furtherance of Executive Order 2020-19 of the Governor of South Carolina; and

WHEREAS, on April 7, 2020, the Mayor of the Town of Seabrook Island issued Executive Order No. 2020-04 in furtherance of Executive Order 2020-21 of the Governor of South Carolina, ordering that residents and visitors of the Town of Seabrook Island limit social interaction, practice "social distancing" in accordance with CDC guidance and limit their movements outside of their home, place of residence, or current place of abode, except for purposes of engaging in Essential Business, Essential Activities or Critical Infrastructure Operations as those terms are defined in the Mayor's Executive Order 2020-04; and

WHEREAS, on April 14, 2020, the Mayor of the Town of Seabrook Island issued Executive Order No. 2020-05, confirming the continuing effect of the provisions of his Executive Orders 2020-01, 2020-02, 2020-03 and 2020-04; and

WHEREAS, on April 28, 2020 the Mayor of the Town of Seabrook Island issued Executive Order 2020-06 in furtherance of Executive Order 2020-28 issued by the Governor of South Carolina allowing certain non-essential businesses characterized as Retail Stores to re-open to non-employees and for access and use by the public; and

WHEREAS, on May 4, 2020 the Mayor of the Town of Seabrook Island issued Executive Order 2020-07 in furtherance of Executive Order No. 2020-31 issued by the Governor of South Carolina; and

WHEREAS, on May 15, 2020 the Mayor of the Town of Seabrook Island issued Executive Order 2020-08 in furtherance of Executive Order No. 2020-36 issued by the Governor of South Carolina;

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 to 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 and Recission 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 rescinded in furtherance of Executive Order No. 2020-30 issued by the Governor of South Carolina.
- (c) The provisions of Executive Order No. 2020-03, which was issued by the Mayor of the Town of Seabrook Island on April 6, 2020, are hereby rescinded in furtherance of Executive Order No. 2020-30 issued by the Governor of South Carolina.
- (d) The provisions of Executive Order No. 2020-04, which was issued by the Mayor of the Town of Seabrook Island on April 7, 2020, are hereby modified to encourage rather than mandate restrictions of movements of residents and visitors of the Town outside of their home, place of residence, or current place of abode except for purposes of engaging in Essential Business, Essential Activities, or Critical Infrastructure Operations in furtherance of Executive Order 2020-31 issued by the Governor of South Carolina.
- (e) Notwithstanding any provision of Executive Order No. 2020-05, issued by the Mayor of the Town of Seabrook Island on April 14, 2020, to the contrary, the provisions of the Mayor's Executive Order 2020-01 are and shall remain in effect until the earlier of: (i) express rescission, modification or amendment thereof; or (ii) expiration of the State of Emergency in the Town of Seabrook Island declared by the Mayor on March 17, 2020.
- (f) The provisions of Executive Order No. 2020-06, which was issued by the Mayor of the Town of Seabrook Island on April 28, 2020 in furtherance of Executive Order 2020-28 issued by the Governor of South Carolina, are hereby rescinded in favor of the provisions

of this Emergency Ordinance amendment pertaining to modification of Non-Essential Business Closures.

- (g) The provisions of Executive Order No. 2020-07, which was issued by the Mayor of the Town of Seabrook Island on May 4, 2020 in furtherance of Executive Order No. 2020-31 issued by the Governor of South Carolina, and pertaining to restriction of movements of residents and visitors of the Town outside of their home, place of residence, or current place of abode except for purposes of engaging in Essential Business, Essential Activities, or Critical Infrastructure Operations are hereby rescinded in favor of the provisions of this Emergency Ordinance amendment pertaining to Resumption of Indoor On Premises Dining by Restaurants and Modifications of Non-Essential Business Closures.
- (h) The provisions of Executive Order No. 2020-08, which was issued by the Mayor of the Town of Seabrook Island on May 15, 2020, in furtherance of Executive Order 2020-36 issued by the Governor of South Carolina are hereby adopted by reference as if fully set forth herein.

SECTION 2. Resumption of Indoor, On Premises Dining by Restaurants

- (a) Pursuant to Executive Order No. 2020-34, which was issued by the Governor of the State of South Carolina on May 10, 2020, effective May 11, 2020, Restaurants, as that term is defined in the Governor's Executive Order 2020-10, that are located within the Town, are authorized to provide services for indoor, on premises customer dining in accordance with guidelines established by the South Carolina Restaurant and Lodging Association and in accordance with applicable sanitation guidelines promulgated by CDC or South Carolina Department of Health and Environment ("SCDHEC"). For purposes of this Section, the following guidelines are referenced with approval:
 - (1) Guidelines for Re-opening Our Hospitality Industry (SCRLA Opening Restaurants Phase One Recommendations)
(<https://governor.sc.gov/sites/default/files/Documents/SC%20restaurant%20reopening%20guidelines%20FINAL%205.1.20.pdf>)
 - (2) Guidelines for Re-opening Our Hospitality Industry (SCRLA Opening Restaurants Phase Two Recommendations)
(<https://governor.sc.gov/sites/default/files/Documents/newsroom/SC%20restaurant%20reopening%20guidelines%20Phase%20Two%205.8.20.pdf>)
 - (3) Retail Food Service Establishments & COVID-19 (SCDHEC Restaurant Re-opening Toolkit)
(<https://www.scdhec.gov/infectious-diseases/viruses/coronavirus-disease-2019-covid-19/retail-food-service-establishments-covid-19>)

SECTION 3. Modification of Non-Essential Business Closures

(a) Pursuant to Executive Order No. 2020-36, which was issued by the Governor of the State of South Carolina on May 15, 2020, effective Monday, May 18, 2020, at 12:01 am, 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. Concert venues
- d. Theaters, auditoriums, and performing arts centers
- e. Racetracks
- f. Adult entertainment venues
- g. Venues operated by social clubs

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

- a. Spectator sports

(3) Businesses not identified in the foregoing list shall limit the number of customers allowed to enter and simultaneously occupy the premises so as not to exceed five (5) customers per 1,000 square feet of retail space, or twenty percent (20%) of the occupancy limit as determined by the fire marshal, whichever is less. Such businesses shall not knowingly allow customers, patrons, or other guests to congregate within six (6) feet of one another, exclusive of family units. Any businesses, venues, facilities, services, and activities that elect to re-open to non-employees and for access or use by the public, shall consider and implement corresponding industry guidelines regarding the same and all reasonable steps to comply with any applicable sanitation guidelines promulgated by the CDC, DHEC, or any other state or federal public health officials. For purposes of the foregoing, reference is made with approval of the following guidelines:

- a. Close Contact and/or Service Industry Employers Re-Opening Guidelines (<https://scommerce.com/sites/default/files/2020-05/Close%20Contact.Service.pdf>)
- b. Cosmetology Industry Employers Re-Opening Guidelines (<https://scommerce.com/sites/default/files/2020-05/Cosmetology.pdf>)
- c. Re-opening Guidelines Template

<https://scommerce.com/sites/default/files/2020-05/Fitness%20Guidance.pdf>

d. Interim Guidelines for Re-opening Public Swimming Pools

<https://scommerce.com/sites/default/files/2020-05/Guidelines%20for%20Reopening%20Public%20Swimming%20Pools.pdf>

(b) 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

In accordance with the terms of Emergency Ordinance 2020-01, as amended, all restrictions imposed by that Emergency Ordinance on rental and check-in of any Short Term Rental Unit, i.e., 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") within the Town expired as of 11:59 pm on May 15, 2020 and is no longer in force or effect.

SECTION 4. Emergency Provisions Related to Town Meetings

(a) As of June 1, 2020 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 shall be held in accordance with any applicable schedule therefore, whether established by Town ordinance or otherwise and, until termination of the State of Emergency within the Town declared to alleviate the effects of the COVID-19 public health emergency, shall be conducted so as to maintain social distancing by those participating in the meetings and without in person attendance of members of the general public.

(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 May 26, 2020 and July 26, 2020, are hereby repealed.
- (b) The Zoning Administrator shall not issue any new temporary use permits for events and activities taking place between May 26, 2020 and July 26, 2020, except for events that the Zoning Administrator determines can be held with adherence to social distancing practices and without the congregation of large groups so as to minimize the risk of spread of COVID-19 within the Town in consequence of such events.

SECTION 6. Emergency Provisions Related to Extension of the Expiration of Existing Building Permits

Notwithstanding the requirements of Sec. 13.70.20 of the Development Standards Ordinance, the time limit for any active building permit which was in effect as of March 1, 2020, or which was obtained between March 1, 2020 and July 26, 2020, shall be automatically extended for a period of six months. A permit holder may apply for an additional six-month extension, which may be granted by the Zoning Administrator pursuant to Sec. 13.70.20(c) of the Development Standards Ordinance.

SECTION 7. 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 8. No Creation of Individual Rights, Privileges or Benefits

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 9. 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 10. Conflicting Ordinances Repealed or Suspended.

- (a) Emergency Ordinance 2020-01 is hereby repealed in its entirety.
- (b) All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby suspended.

SECTION 11. 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 (July 26, 2020).

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

TOWN OF SEABROOK ISLAND

John Gregg, Mayor

ATTEST

Faye Allbritton, Town Clerk