

TOWN OF SEABROOK ISLAND

EMERGENCY ORDINANCE NO. 2020-03

ADOPTED _____

AN EMERGENCY ORDINANCE TO REQUIRE THE WEARING OF FACE COVERINGS AT ALL BUSINESS ESTABLISHMENTS WITHIN THE TOWN; 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 April 3, 2020, the Governor of the State of South Carolina issued Executive Order No. 2020-18, augmenting his Executive Order 2020-17 ordering that certain "non-essential" businesses, venues, facilities, services and activities shall remain closed; 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, and 2020-18; an

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, and 2020-18; 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, and 2020-18 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 June 11, 2020, the Governor of South Carolina issued Executive Order No. 2020-40 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 and modified by his Executive Order 2020-37 to authorize certain business identified in Executive Order 2020-40 to re-open to non-employees and for access or use by the public and to relieve certain restrictions in respect of other businesses; 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 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 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; 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 ("CDC") 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 the CDC and South Carolina Department of Health and Environmental Control ("SCDHEC") strongly advise, in addition to social distancing, the use of face coverings to slow the spread of COVID-19; 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, on May 26, 2020 the Mayor and Council of the Town of Seabrook Island adopted Emergency Ordinance 2020-02 to, among other things, revise restrictions on businesses within the Town in accordance with Executive Orders of the Governor of South Carolina that had been issued by that date; 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. Modification of Existing Emergency Provisions.

- (a) The Town's prior Emergency Ordinance No. 2020-02 remains in full force and effect and is not amended or rescinded by this Emergency Ordinance, except as follows:
- (1) Pursuant to Executive Order No. 2020-40, which was issued by the Governor of the State of South Carolina on June 11, 2020, the following types of businesses, venues, facilities, services, and activities may be reopened to the public, subject to social distancing guidelines:
 - a. Entertainment venues and facilities as follows: Bowling Alleys.

SECTION 2. Face Coverings Required

- (a) Definitions. For purposes of Sections 2, 2.1 and 3 hereof, unless otherwise expressly stated, the following terms shall have the meanings set forth below:
- (1) *Business establishment.* Any enterprise that sells or offers goods, merchandise or services to its customers through its employees, independent contractors associated with the business, or volunteers acting on behalf of the enterprise. The term includes sole proprietorships, joint ventures, partnerships, corporations, or any other form of legal entity whether for profit or not for profit, including those referenced and identified as a food provider.
 - (2) *Customer.* A person who purchases or receives goods, services or merchandise from a business establishment, including a person who is a guest or participant at, including but not limited to, sports, charity, and entertainment events.
 - (3) *Face Covering.* A cloth, fabric, or other soft or permeable material, without holes, that covers both the mouth and nose, and which effectively contains the expulsion of respiratory droplets by an individual when coughing, sneezing or talking. The term shall include surgical masks, N-95 respirators, face shields, handmade masks, bandanas, and neck gaiters.
- (b) The use of a Face Covering by every person within the boundaries of the Town of Seabrook Island ("Town") is required in accordance with the following:
- (1) All persons within the portion of any building within the Town that is open to the public or that is open to Customers;
 - (2) All persons waiting in line to enter a Business Establishment; and
 - (3) Business Establishments shall require their employees to wear Face Coverings while engaged in face-to-face interactions with Customers.

- (c) Each Business Establishment shall post conspicuous signage at all Customer entrances of buildings of the Business Establishment that the use of Face Coverings by Customers is mandated by law.

SECTION 2. 1. Exemptions to Required Face Coverings

- (a) Persons shall be exempt from the required use of Face Coverings of this Section in the following circumstances:
 - (1) Any person who is unable to safely wear a Face Covering due to age, an underlying health condition, or is unable to remove the Face Covering without the assistance of others;
 - (2) While consuming food and/or beverages at facilities of the provider of the food or beverages or while smoking in areas designated by a proprietor of facilities as an area where smoking is permitted;
 - (3) Any person whose religious beliefs prevent them from wearing a face covering;
 - (4) Children under 5 years old;
 - (5) When complying with directions of law enforcement officers;
 - (6) In settings where it is not feasible to wear a face covering, including when obtaining or rendering goods or services such as the receipt of dental services or while swimming; and,
 - (7) Police officers, fire fighters and other first responders when not practical or engaged in a public safety matter of an emergency nature; or persons engaged in the repair or maintenance of Seabrook Island Utility Commission infrastructure.

SECTION 3. Face Coverings Encouraged

- (a) The use of a Face Covering by every person within the boundaries of the Town is encouraged in accordance with the following:
 - (1) While participating in allowed gatherings, that is, gatherings of ten persons or fewer, when separation of at least six feet between gathered individuals who do not occupy a common residence (that separation hereinafter referred to as “Social Distancing”) is not being practiced;
 - (2) While persons who are employees of a Business Establishment are within areas of a business establishment not open to Customers where interactions with other persons can occur, and the space in such areas is inadequate for Social Distancing;

(3) While any person is being transported in a vehicle with any other person who is not a member of the same household; and

(4) All persons using Seabrook Island Property Owners Association beach access points designated as 1-9, including associated wash stations.

SECTION 4. 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. Persons found guilty of violating this ordinance shall be subject to a fine of \$50.00 per violation, plus required statutory assessments. Businesses found guilty of not requiring employees to wear Face Coverings shall be subject to a fine of \$100.00 per day, plus required statutory assessments. Each violation shall be treated as a separate offense.

(c) Any Business Establishment found guilty of violating any provision contained herein may, in addition to the Penalties referenced hereunder, have its Business License revoked or suspended.

SECTION 5. 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 6. 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 7. Conflicting Ordinances Repealed or Suspended.

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

SECTION 8. Effective Date.

This emergency ordinance shall be effective at 12:00 pm on July 1, 2020, and shall expire automatically on the sixty-first day following the date of enactment (August 30, 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