

EMERGENCY ORDINANCE 2020-15

REQUIRING INDIVIDUALS TO WEAR FACE COVERINGS IN RETAIL, FOODSERVICE AND OTHER ESTABLISHMENTS, AND MATTERS RELATED THERETO

WHEREAS, Novel Coronavirus Disease 2019 (COVID-19) is a severe acute respiratory illness that can spread among humans through respiratory transmission and other potential methods, and presents symptoms similar to those of influenza; and,

WHEREAS, in December of 2019, a new and substantial outbreak of COVID-19 emerged in Wuhan, China, and has since spread rapidly to 117 countries and territories throughout the World, including the United States, and more specifically Charleston County and the State of South Carolina; and,

WHEREAS, on March 11, 2020, the World Health Organization (WHO) declared COVID-19 a pandemic; and,

WHEREAS, the Centers for Disease Control and Prevention (CDC) is reporting the widespread transmission of COVID-19 in the United States; and,

WHEREAS, no vaccine or drug is currently available to cure or combat COVID-19; and,

WHEREAS, the Town of Sullivan's Island is threatened by COVID-19 because of the apparent ability of the virus to spread rapidly among humans, and COVID-19 thereby constitutes a clear and present threat to the health, safety, and welfare of the citizens and visitors of the Town of Sullivan's Island; and,

WHEREAS, the CDC has issued guidelines for "community mitigation strategies" to limit the spread of COVID-19, including recommendations for social distancing; and,

WHEREAS, the CDC states that cloth face coverings may help prevent people who have COVID-19 from spreading the virus to others, and recommends that people wear cloth face coverings in public settings and when around people outside of their household, especially when other social distancing measures are difficult to maintain, and,

WHEREAS, on August 12, 2020, the South Carolina Department of Health and Environmental Control (DHEC) released data supporting the effectiveness of local mask ordinances in helping to slow the spread of COVID-19, showing that jurisdictions adopting mask requirements saw a decrease in total cases of 15.1 percent in the first four weeks after implementation of those requirements, compared to an increase in cases of 30.4 percent in those without mask requirements; and,

WHEREAS, the Town of Sullivan's Island is working with other government agencies in an effort to prevent the spread of the disease; and,

WHEREAS, Mayor O'Neil and Town Council declared that the Town of Sullivan's Island is in a state of emergency on March 15, 2020, and renewed that declaration on May 19, 2020; and,

WHEREAS, Section 5-7-250 of the South Carolina Code of Laws empowers Council to enact emergency ordinances affecting life, health, or safety; and,

WHEREAS, the coronavirus pandemic continues to be a severe threat to the health and welfare of residents of Sullivan's Island beyond the duration earlier anticipated; and

WHEREAS, the South Carolina Attorney General, on June 25, 2020, issued a public statement that enacting local mask requirements is within the police power of municipalities and is not preempted by State law; and

WHEREAS, the Mayor and Council of the Town of Sullivan's Island have determined, based on the recommendations of public health experts and responsive to a serious threat to the public health, safety, and welfare of its citizens, that it would serve the public interest and be within the Town's police powers under Home Rule and S.C. Code § 5-7-60 to require that individuals wear face coverings in certain situations and locations.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Sullivan's Island, in Council assembled, that:

Section 1. Definitions. As used herein, the terms below shall have the following meanings:

- 1) "Establishment" means a Foodservice Establishment, Retail Establishment, or Other Establishment.
- 2) "Face Covering" means a uniform piece of cloth, fabric, or other material that securely covers a person's nose and mouth and remains affixed in place without the use of one's hands. Face Coverings include, but are not limited to, bandanas, medical masks, cloth masks, scarves, and gaiters, provided that they are worn such that they securely cover the person's nose and mouth.
- 3) "Foodservice Establishment" means any establishment within the Town of Sullivan's Island that sells prepared food, including without limitation to, those offering onsite consumption, delivery, carry-out, or drive-through services.
- 4) "Other Establishment" means any Town of Sullivan's Island owned property or other property within the Town of Sullivan's Island which is accessible by the public including without limitation, the Battery Gadsden Cultural Center, the Island Clubhouse, or the Sand Dunes Club.
- 5) "Responsible Person," with respect to an Establishment, means any individual associated with the Establishment who has the authority and ability to enforce the requirements of the Ordinance within the Establishment, such as an owner, manager, or supervisor. "Responsible Person" may also include an employee or other designee that is present at the Establishment but does not have the title of manager or supervisor, but who has the temporary or designated authority and ability to ensure that the requirements of this Ordinance are met while the Establishment is open to the public.

- 6) "Retail Establishment" means any retail business, organization, establishment, or facility open to the public within the Town of Sullivan's Island, including without limitation:
- a) grocery stores, convenience stores, and any other establishment engaged in the retail sale of non-prepared food;
 - b) commercial stores engaged in the retail sale of goods or services to the public including without limitation sporting goods stores; furniture and home-furnishings stores; clothing, shoe, and clothing-accessory stores; jewelry, luggage, and leather goods stores; department stores; art galleries; hardware and home-improvement stores; book, craft, and music stores; florists and flower stores; and all other stores that sell supplies for household consumption or use;
 - c) doctors' offices, pharmacies and other stores that sell medications or medical supplies or provide medical services;
 - d) alcoholic beverage stores; and
 - e) laundromats.

Section 2. Use of Face Coverings. Effective as of the signing of this Emergency Ordinance:

- 1. all customers are required to wear Face Coverings while patronizing an Establishment; and
- 2. while interacting with people in or on outdoor spaces including but not limited to parks, playgrounds, fields, tennis, basketball, paddle ball courts, beach access paths, curbside pickup, delivery, service calls and waiting for entry into an Establishment unless they can and do maintain social distancing of at least (6) feet from other persons; and
- 3. all Retail Establishments and Other Establishments shall require staff to wear, and those staff shall wear, Face Coverings while working in areas open to the general public and areas in which interactions with other staff are likely in which social distancing of at least six feet cannot be observed; and
- 4. all Foodservice Establishments shall require staff who interact with customers (including, without limitation, delivery personnel) to wear, and those staff shall wear, Face Coverings while working.

Section 3. Exemptions. Face Coverings shall not be required:

- a) for those who cannot wear a Face Covering due to a medical or behavioral condition; or

- b) for children under two (2) years old, provided that adults accompanying children age two (2) through ten (10) shall use reasonable efforts to cause those children to wear Face Coverings while patronizing an Establishment; or
- c) for patrons of Foodservice Establishments only while seated; or
- d) in private, individual offices; or
- e) when complying with directions of law enforcement officers; or
- f) in settings where it is not practical or feasible to wear a Face Covering, including when obtaining or rendering goods or services such as the receipt of dental services, medical treatment or while swimming; or
- g) while exclusively with members of a family or the same household, and no person other than such family or household is within six (6) feet.

Section 4. Individual Violations: Civil Infraction. Any person violating the provisions of this Ordinance by failing to wear a Face Covering when required shall be guilty of a civil infraction, punishable by a penalty of not more than \$100. Each day of a continuing violation of this Ordinance shall be considered a separate and distinct offense. The foregoing notwithstanding, warnings may be issued in an effort to bring people into voluntary compliance with the terms of this Ordinance prior to the issuance of a civil penalty and/or commencement of any enforcement action.

Section 5. Responsible Person Violations: Civil Infraction. Any Responsible Person violating the provisions of this Ordinance by failing to require employees of the Establishment to wear a Face Covering when required shall be guilty of a civil infraction, punishable by a penalty of not more than \$50. Each day of a continuing violation of this Ordinance shall be considered a separate and distinct offense.

Section 6. Responsible Person Violations: Revocation of Permits and Licenses. In addition to the penalties established by Section 5 hereof, repeated violations of this Ordinance by a Responsible Person by failing to require employees of the Establishment to wear a Face Covering may, subject to all procedural protections set forth in the Town of Sullivan's Island Code, result in the suspension or revocation of any occupancy permit or business license issued to business where the repeated violations occurred.

Section 7. Responsible Person Violations: Public Nuisance. In addition to the penalties established by Section 5 hereof, repeated violations of this Ordinance by a Responsible Person by failing to require employees of the Establishment to wear a Face Covering are additionally hereby declared to be a public nuisance, which may be abated by the Town of Sullivan's Island by restraining order, preliminary and permanent injunction, or other means provided for by the laws of this State. The foregoing notwithstanding, every effort shall be made to bring Establishments into voluntary compliance with the terms of this Ordinance prior to the commencement of any enforcement action.

Section 8. Duties of Establishments and Responsible Persons. Establishments and Responsible Persons shall have a duty to enforce the provisions of this Ordinance only against employees of the Establishment. Without limiting the generality of the foregoing, no Establishment or Responsible Person shall have any duty to require that customers, visitors, or other members of the general public wear Face Coverings.

Section 9. Suspension of Contrary Local Provisions. During the Emergency Term (as defined in Section 12 below), any ordinance, resolution, policy, or bylaw of the Town of Sullivan's Island that conflicts with the provisions hereof shall be and is hereby suspended and superseded.

Section 10. Expiration of Ordinance; Extension of Emergency Term. As provided by S.C. Code § 5-7-250(d), this Ordinance shall expire automatically as of the sixty-first day following the date of enactment (the "Emergency Term"). Notwithstanding the foregoing, however, Council may extend the Emergency Term by emergency ordinance for one or more additional terms, each of no more than sixty days, provided that the total duration of the Emergency Term shall not exceed six months without enacting an ordinance in the ordinary course.

Section 11. Severability. Should any provision, section, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, or words of this Ordinance as hereby adopted shall remain in full force and effect.

Section 12. Effective Date and Time. This emergency Ordinance shall take effect upon the signing of this Ordinance.

PASSED AND APPROVED BY THE MAYOR AND COUNCIL FOR THE TOWN OF SULLIVAN'S ISLAND, ON THE 27th DAY OF AUGUST, 2020.



Patrick M. O'Neil, Mayor