

TOWN OF EDISTO BEACH
EMERGENCY ORDINANCE 2020-21

**Emergency Ordinance Requiring that Face Coverings Be Worn in Certain Circumstances
in the Town of Edisto Beach During the COVID-19 Public Health Emergency**

WHEREAS, it is well recognized that SARS-CoV-2, the virus that causes the disease COVID-19, presents a public health concern that requires extraordinary protective measures and vigilance; and

WHEREAS, on March 11, 2020, the World Health Organization declared a world-wide pandemic; and

WHEREAS, on March 13, 2020, the President of the United States declared a National Emergency for the United States and its territories to reduce the spread of the virus; and

WHEREAS, on March 13, 2020, the Governor of the State of South Carolina Henry McMaster declared a state of emergency for the State of South Carolina which he has renewed and is currently in effect; and

WHEREAS, S.C. Code Ann. §5-7-250 empowers Council to enact emergency ordinances affecting life, health, safety, or property; and

WHEREAS, on June 24, 2020 South Carolina Attorney General Alan Wilson issued a public written statement wherein he gave the opinion that municipalities in South Carolina may lawfully enact emergency ordinances requiring the wearing of masks as a measure to protect against the spread of COVID-19 and that generally these ordinances do not violate constitutional rights. A copy of this statement is attached to this ordinance as Exhibit A for reference; and

WHEREAS, COVID-19 has spread across the state with the South Carolina Department of Health and Environmental Control (“SCDHEC”) confirming the localized person-to-person spread of COVID-19 in South Carolina, which indicates a significantly high risk of exposure and infection creating an extreme public health risk; and

WHEREAS, as of June 28, 2020, there were 33,221 confirmed cases throughout the State of South Carolina, 3380 cases in Charleston County and 306 cases in Colleton County, and 712 deaths statewide, 23 deaths in Charleston County and 21 deaths in Colleton County; and

WHEREAS, at the City of Columbia Council meeting on June 23, 2020, which has been broadcast via YouTube, Dr. Linda Bell, State Epidemiologist, stated “We are now a state on the national picture among a handful of other states considered to be hot spots” and that 42% of all reported positive cases since the start of reporting to SCDHEC in March have been reported in the last two weeks, noting that this is a very troubling trend telling us that not enough people are taking this pandemic seriously enough or adopting the measures that have been recommended such as mask wearing. Dr. Bell stated that masks have an important role in stopping the spread; and

WHEREAS, the MUSC COVID-19 Situation Assessment for the Tri-County area for June 24 now indicates status “RED” for three important indices: (1) the 7 day average of confirmed cases from day to day, which is above 8.3%, (2) the sustained reduction in new cases index in the number of daily cases for a 14 day period, which is actually now on an upward trajectory, and (3) the number of reported cases per 10,000 people per week where 5 or more moves the index into “RED” with the actual number this week being 18.5. The Situation Assessment also states the number of patients hospitalized for COVID-19 has increased substantially over the past several weeks at MUSC and “social distancing and mask use should be vigorously promoted or mandated”; and

WHEREAS, testing reports from SCDHEC as of June 28 indicate that percent positive graphs, which show trends in the percent of cases of COVID-19 relative to the number of tests performed, demonstrate a significant recent increase, measuring 19.6% on June 26 and 20.1% on June 27 compared to 7% to 9% at the end of May; and

WHEREAS, the number of cases is growing rapidly and if COVID–19 continues to spread in the Lowcountry, the number of persons relying on medical, pharmaceutical, and general cleaning supplies will increase, the private and public sector work force will be negatively impacted by absenteeism, and the demand for medical facilities may exceed locally available resources; and

WHEREAS, it is vitally important that we all work together to decrease the widespread proliferation of COVID19 among us all now rather than suffer the unfortunate and devastating consequences later; and

WHEREAS, the Centers for Disease Control and Prevention (“CDC”) and SCDHEC advise the use of cloth face coverings to slow the spread of COVID-19; and

WHEREAS, taking measures to control outbreaks minimizes the risk to the public, maintains the health and safety of the Town’s residents, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS, in order to protect, preserve, and promote the general health, safety and welfare and the peace and order of the community, the Town is taking steps to try to protect the citizens and employees of the Town and visitors to the Town from increased risk of exposure; and

WHEREAS, restaurants, business establishments which sell prepared food and beverages, retail stores, salons, barber shops, grocery stores, convenience stores, gas stations, and pharmacies are determined by the Council to be places where the public may patronize indoors in larger numbers, particularly due to the relatively few number of these businesses in town versus the tourist season population, and where social distancing practices may not be practical; and

WHEREAS, in light of the foregoing, Town Council deems it proper and necessary to adopt this Emergency Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Town Council of the Town of Edisto Beach, South Carolina this 29th day of June, 2020 that face coverings shall be required in public places within the Town to slow the spread of the novel coronavirus disease, known as COVID-19, as follows:

1. For the purposes of this Ordinance and as used herein, “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.

2. All persons entering a restaurant, business establishment which sells prepared food and beverages, retail store, salon, barber shop, grocery store, convenience store, gas station, and pharmacy in the Town shall wear a face covering at all times while inside the business establishment unless exempted as provided in Paragraphs 4 and 5 herein.

3. All restaurants, business establishment which sells prepared food and beverages, retail stores, salons, barber shops, grocery stores, convenience stores, gas stations, and pharmacies in the Town shall require their employees to wear a face covering at all times while having face to face interaction with the public unless the employee is exempted as provided in Paragraphs 4 and 5 herein.

4. 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 is exempt from this Ordinance.

5. Face coverings are not required in the following circumstances:

- a. While drinking, eating, or smoking;
- b. When wearing a face covering would prevent the receipt of personal services;
- c. For people whose religious beliefs prevent them from wearing a face covering;
- d. When a person is 10 years of age or younger.

6. A person who fails to wear a face mask in compliance with Paragraph 2 violates this Ordinance and shall be guilty of a civil infraction, punishable by a fine of not more than \$25.00.

7. A person who fails to comply with Paragraph 3 violates this Ordinance and shall be guilty of a civil infraction, punishable by a fine of not more than \$100.00. Each day of a continuing violation of Paragraph 3 of this Ordinance shall be considered a separate and distinct offense. In addition to the fines established by this paragraph, repeated violations of this Ordinance by a person as defined in this Paragraph 7 may, subject to all procedural protections set forth in the Town Code, result in the suspension or revocation of any occupancy permit or business license issued to a business where the repeated violations occurred. Repeated violations of this Ordinance are additionally hereby declared to be a public nuisance, which may be abated by the Town by restraining order, preliminary and permanent injunction, or other means provided for by the laws of this State. For the purposes of enforcement of Paragraph 3 of this Ordinance, “person” shall be defined in this Paragraph 7 as any individual associated with the business establishment subject to Paragraph 3 of this Ordinance who has the control or authority and ability to enforce the

requirements of this Ordinance within the business establishment, such as an owner, manager, or supervisor. "Person" also includes an employee or other designee who is present at the business but does not have the title of manager, supervisor, etc., but has the authority and ability to ensure the requirements of this Ordinance are met while the business establishment is open to the public.

8. Should any provision, 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, paragraphs, sentences, or words of this Ordinance as hereby adopted shall remain in full force and effect.

9. This Ordinance is effective as of 6:00 a.m., Tuesday, June 30, 2020. This Ordinance shall be terminated by the issuance of another ordinance or shall automatically expire on the 61st day after enactment of this Ordinance, whichever date is earlier.

Enacted this day of 29th day of June 2020, by the Town Council of the Town of Edisto Beach, South Carolina.

Jane Darby, Mayor

Attest:

Iris Hill, Town Administrator

Approved as to form: _____