

20-0906
AN EMERGENCY ORDINANCE

A TEMPORARY ORDINANCE AMENDING TEMPORARY ORDINANCE 20-0902 REQUIRING INDIVIDUALS TO WEAR FACE COVERINGS IN CERTAIN CIRCUMSTANCES IN THE TOWN OF SUMMERVILLE TO REDUCE RISK OF EXPOSURE TO COVID-19 DURING THE PUBLIC HEALTH EMERGENCY AND RECOVERY SO THAT IT WILL EXPIRE ON NOVEMBER 12, 2020

WHEREAS, the dangerous and unsafe conditions created by the 2019 Novel Coronavirus (COVID-19) continue to affect the safety and wellbeing of the Town of Summerville (Town) residents; and

WHEREAS, on July 9, 2020 Town Council enacted Emergency Ordinance 20-0703 requiring the wearing of face mask to assist in combatting the deadly disease known as COVID-19 renewed on August 13, 2020 to expire at 11:59pm on September 10, 2020; and

WHEREAS, the State and Town continue to experience a dramatic increase in the number of identified new COVID-19 cases, and as of September 24, 2020, the South Carolina Department of Health and Environmental Control (“DHEC”) is reporting that there have been 143,902 confirmed COVID-19 cases and 3,297 confirmed COVID-19 deaths in the State. In Dorchester County there are 4,112 reported cases and 89 deaths; and

WHEREAS, the 2019 Novel Coronavirus (“COVID-19”) is a respiratory disease that can result in serious illness or death by the SARS-CoV-2 virus, which is a new strain of coronavirus previously unidentified in humans and which can spread from person to person; and

WHEREAS, the Centers for Disease Control and Prevention (the “CDC”) has warned of the high public health threat posed by COVID-19 globally and in the United States; and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary declared a public health emergency in the United States for COVID-19 under Section 391 of the Public Health Service Act; and

WHEREAS, on March 13, 2020, the President of the United States declared that the COVID-19 outbreak in the United States constitutes a national emergency, which began on March 1, 2020; and

WHEREAS, also on March 13, 2020, the Governor of the State of South Carolina (the “State”) issued Executive Order 2020-08, declaring a State of Emergency based on a determination that the COVID-19 poses an actual or imminent public health emergency for the State; and

WHEREAS, the Governor of the State has subsequently declared a continued State of Emergency in Executive Orders 2020-15 (March 28), 2020-23 (April 12), 2020-29 (April 27), 2020-35 (May 12), 2020-38 (May 27), and 2020-40 (June 11); and

WHEREAS, with increasing cases of COVID–19 cases in the State and in the TOWN of Summerville, the demand for medical, pharmaceutical, personal, and general cleaning supplies may overwhelm sources of supply; the private and public sector work force may be negatively impacted by absenteeism; and the demand for medical facilities may exceed locally available resources; and

WHEREAS, health authorities, including the CDC, the Surgeon General of the United States, and DHEC have recommended the use of face coverings as a means of preventing the spread of COVID-19; and

WHEREAS, S.C. Code § 5-7-250(d) provides that “to meet public emergencies affecting life, health, safety or the property of the people, council may adopt emergency ordinances ... 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. Emergency ordinances shall expire automatically as of the sixty-first day following the date of enactment;” and

WHEREAS, the Council for the Town of Summerville has 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; 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, this Emergency Ordinance must be approved by at least two-thirds of the Councilmembers present at the meeting in which it was considered;

WHEREAS, in light of the foregoing, Town Council deems it proper and necessary to adopt this Temporary Ordinance in order to require (a) patrons of grocery stores, pharmacies, and Town owned or operated buildings to wear face coverings while inside in light of the fact these establishments sell essential goods and provide essential services such that individuals do not have a meaning choice to decide not to utilize these facilities and (b) all employees of restaurants, bars, retail establishments, salons, grocery stores, pharmacies, and the Town to wear face coverings at any time there is face to face interaction with the public;

WHEREAS, Town Council enacted Temporary Ordinance 20-0902 dealing with the wearing of mask on September 10, 2020 due to expire on September 30, 2020 if not amended or revoked.

NOW, THEREFORE, be it ordained by the Town Council of Summerville in Council duly assembled that:

1. All persons entering a grocery store, pharmacy or Town owned or operated building in the Town must wear a face covering while inside the establishment or facility. For purposes of this Ordinance, the term grocery store shall mean a retail establishment that primarily sells food, but may also sell other convenience and household goods; the term does not include a convenience store. The business shall not have responsibility for enforcing this requirement, but shall post conspicuous signage at all entrances informing its patrons of the requirements of this section.
2. All restaurants, retail stores, salons, barber shops, grocery stores, pharmacies and Town buildings and indoor facilities in the Town must require their employees to wear a face covering at all times while having face to face interaction with the public or other employees.
3. Exemptions: a) 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. Further, no person shall be required to disclose the nature of any health condition in order to qualify for this exemption; b) All persons twelve years of age or under; c) Any person in a private or individual office and for employees where they are separated from customers by a plexiglass/glass shield or from other employees where social distancing of at least six (6) feet may be observed; d) In settings where it is not feasible to wear a face covering including persons receiving oral health services, persons swimming or engaging in athletic activities; e) Police officers, fire fighters and other first responders when not practical or engaged in a public safety matter of an emergency nature.
4. Any person violating Section One (1) herein above 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 less than \$25 NOT TO EXCEED \$100. Each day of a continuing violation of this Ordinance shall be considered a separate and distinct offense.
5. Any Responsible Person violating Section Two (2) herein above 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 less than \$100 NOT TO EXCEED \$500. Each day of a continuing violation of this Ordinance shall be considered a separate and distinct offense. In addition to the fines established by this section, repeated violations of this Ordinance by a person who owns, manages, operates or otherwise controls a business subject to this Ordinance 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 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. The foregoing notwithstanding, every effort shall be made to bring the business into voluntary compliance with the terms of this Ordinance prior to the issuance of any citation. For the

purposes of Section 2 of this Ordinance, "person" shall be defined as any individual associated with the business who has the control or authority and ability to enforce the requirements of the Ordinance within the business, such as an owner, manager or supervisor. "Person" may also include an employee or other designee that is present at the business but does not have the title of manager, supervisor, etc. but has the authority and ability to ensure that the requirements of this Ordinance are met while the business is open to the public.

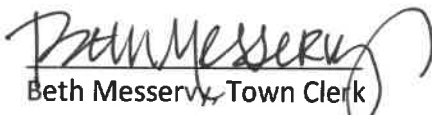
6. Should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, or words of this Ordinance as hereby adopted shall remain in full force and effect.
7. Temporary Ordinance 29-0902 is hereby amended to automatically expire on November 12, 2020 at 11:59pm if not amended or revoked prior to that time.

IT IS SO ORDAINED!

Date: September 28, 2020


Ricky Waring, Mayor

Attest:


Beth Messervy, Town Clerk