

**AN EMERGENCY ORDINANCE  
21-0301**

**A NEW ORDINANCE 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**

**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.

**WHEREAS**, beginning on June 29, 2020 Town Council has enacted the following Emergency Ordinances requiring the wearing of face mask to assist in combatting the deadly disease known as COVID-19:

<u>Ordinance #</u>	<u>Date approved</u>	<u>Description</u>
20-0604	29-Jun-20	Emergency ordinance to require face mask effective July 1 - July 9
20-0703	9-Jul-20	Emergency ordinance to require face mask effective July 9 – August 13
20-0801	13-Aug-20	Emergency ordinance to extend 20-0703 until September 10
20-0902	10-Sep-20	New emergency ordinance to require face mask in certain circumstances
20-0906	28-Sep-20	Emergency ordinance to extend Ordinance 20-0902 to expire November 12, 2020
20-1101	12-Nov-20	Emergency ordinance to extend Ordinance 20-0906 to expire December 10, 2020
20-1201	10-Dec-20	Emergency ordinance to extend Ordinance 20-1101 to expire January 14, 2021
21-0101	14-Jan-21	Emergency ordinance to extend Ordinance 20-1201 to expire March 15, 2021; and

**WHEREAS**, the State and Town has experienced an increase in the number of identified new COVID-19 cases, and as of March 11, 2021 the South Carolina Department of Health and Environmental Control ("DHEC") is reporting that there have been 529,392 confirmed COVID-19 cases and 8,822 confirmed COVID-19 deaths in the State. In Dorchester County there are 15,584 reported cases and 193 deaths; and

**WHEREAS**, the 2019 Novel Coronavirus 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 has in the past 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**, with the presence 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 certain employees 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 Council members present at the meeting in which it was considered; and

**WHEREAS**, Town Council deems it proper that employees having one on one interaction with clients, patrons, and customers in restaurants, bars, grocery stores, pharmacies, retail stores, salon, barber shops, and indoor municipal buildings shall wear a face covering. While this Ordinance does

not require the general public to wear a mask, every grocery store, pharmacy, retail establishment or business may require a mask to enter.

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

1. All owners or employers of 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. While the general public is not required to wear mask pursuant to this Ordinance, every business entity has the right to require face mask before entry.
2. 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; b) 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; c) In settings where it is not feasible to wear a face covering; d) Police officers, fire fighters and other first responders when not practical or engaged in a public safety matter of an emergency nature.
3. Any Responsible Person violating Section One (1) 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 1 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.
4. 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.

5. This Ordinance shall automatically expire April 8, 2021 at 11:59pm if not amended, renewed or revoked prior to that time.

**IT IS SO ORDAINED!**

Date: March 11, 2021

  
Ricky Waring, Mayor

Attest:

  
Beth Messervy, Town Clerk