

AN EMERGENCY ORDINANCE

REQUIRING INDIVIDUALS TO WEAR FACE COVERINGS IN CERTAIN CIRCUMSTANCES, AND MATTERS RELATED THERETO

WHEREAS, it is well recognized that SARS-CoV-2 the virus that causes the disease COVID-19 is 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 has declared a National Emergency for the United States and its territories in an effort to reduce the spread of the virus; and

WHEREAS, on March 13, 2020, the Governor of the State of South Carolina Henry McMaster has declared a state of emergency for the State of South Carolina; and

WHEREAS, S.C. Code Ann. § 5-7-250 empowers Council to enact emergency ordinances affecting life, health, safety, or property; 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 risk of exposure and infection and creating an extreme public health risk; and

WHEREAS, as of June 26, 2020, the total number of confirmed cases in the South Carolina is approximately 25,701 and the number of confirmed deaths is 659. The number of confirmed cases in Spartanburg County is 1,046; and

WHEREAS, the number of cases is growing rapidly and if COVID-19 continues to spread in the City, 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 COVID-19 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 City’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 City is taking steps to try to protect the citizens and employees of the City from increased risk of exposure; and

WHEREAS, in light of the foregoing, City Council deems it proper and necessary to adopt this emergency ordinance in order to require (a) patrons of grocery stores and pharmacies to wear face

coverings while inside the store in light of the fact these establishments sell essential goods such that individuals do not have a meaningful choice to decide not to shop there and (b) all employees of restaurants, bars, retail establishments, salons, grocery stores, and pharmacies to wear face coverings at any time there is face to face interaction with the public.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SPARTANBURG, SOUTH CAROLINA:

1. All persons entering a grocery store or pharmacy in the City must wear a face covering while inside the establishment. 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, and pharmacies in the City must require their employees to wear a face covering at all times while having face to face interaction with the public.
3. 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. Furthermore, any person whose religious beliefs prevent them from wearing a mask or any person complying with the directions of law enforcement officers are exempt from this ordinance.
4. During the term of this emergency ordinance, any ordinance, resolution, policy, or bylaw of the City that conflicts with the provisions hereof shall be and is hereby suspended and superseded.
5. A person who fails to comply with Section 1 of this ordinance shall be guilty of a civil infraction, punishable by a fine of not more than \$25.00.
6. A person who fails to comply with Section 2 of this ordinance shall be guilty of a civil infraction, punishable by a fine of not more than \$100.00. 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 City 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 is additionally hereby declared to be a public nuisance, which may be abated by the City 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 social distancing 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.
7. Furthermore, Council recommends, but does not require, all persons entering all other public buildings or private buildings into which the public is invited, that are not included in Paragraph 1 above, wear a face covering while inside the establishment. Proprietors of such buildings are

encouraged to adopt and enforce a policy of requiring face coverings for all employees and visitors to their respective buildings and to post conspicuous signage at all entrances.

8. City Council hereby directs the City Manager to exercise his inherent authority (herein after “City Manager’s Authority”) pursuant to Chapter 2, Article IV, Division 2 of the Code of Ordinances of the City of Spartanburg (herein after “City Code”) to require face coverings of all persons entering the common areas of all City operated facilities, including, but not limited to, City Hall, the Police Department, the Fire Department, the Community Services Building, the Public Works building, the Sparta Passenger Center, and all City buses.
9. City Council further directs the City Manager, pursuant to City Manager’s Authority, to identify and direct a city department or departments to establish and carry out a strategic plan of advising, educating, and collaborating with local business owners to implement and carry out Council’s requirements and recommendations stated herein.
10. City Council further directs the City Manager to report to Council on the community’s adherence to the recommendations stated herein and whether Council needs to consider a progressive step toward other mandatory face covering requirements.
11. 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.
12. This emergency ordinance shall be effective at 12:01 p.m. on Monday, June 29, 2020 and 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.

DONE, RATIFIED AND PASSED THIS THE 26th DAY OF JUNE, 2020.




MAYOR

ATTEST:



CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY