

EMERGENCY ORDINANCE NO. 2020- 20

AN EMERGENCY ORDINANCE RATIFYING THE PROCLAMATION ISSUED BY THE MAYOR AND THE CITY MANAGER ON REQUIRING INDIVIDUALS TO WEAR FACE COVERINGS IN ESTABLISHMENTS OPEN TO THE PUBLIC AND FOODSERVICE ESTABLISHMENTS, AND MATTERS RELATED THERETO.

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 World Health Organization declared COVID-19 a Public Health Emergency of International Concern on January 30, 2020; 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), 2020-40 (June 11), and 20-42 (June 26); and

WHEREAS, the State is experiencing a dramatic increase in the number of identified new COVID-19 cases, and as of June 25, 2020, the South Carolina Department of Health and Environmental Control (“DHEC”) is reporting that there have been 27,842 confirmed COVID-19 cases and 683 confirmed COVID-19 deaths in the State; and

WHEREAS, if COVID–19 cases continue to increase in the State and in the City of Florence, 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, the Mayor and the City Manager of the City of Florence issued a Proclamation on July 2, 2020 requiring the use of face coverings, having 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 City of Florence’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 waiting until the next available Council Meeting to act on this issue is not in the best interest of the City of Florence and its citizens; 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 Proclamation was made subject to ratification by the City Council of the City of Florence at its next meeting on July 13, 2020; and

WHEREAS, it has been determined by the City Council that the adoption of this Emergency Ordinance is in the best interest of the City of Florence and its citizens in order to ratify the earlier Proclamation with one clarification incorporated below; and

WHEREAS, S.C. Code § 5-7-250(d) provides that “[t]o meet public emergencies affecting life, health, safety or the property of the people, council may adopt emergency ordinances; but such ordinances shall not levy taxes, grant, renew or extend a franchise or impose or change a service rate. Every emergency ordinance shall be enacted 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, this Ordinance has been approved by at least two-thirds of the Councilmembers present at the meeting in which it was considered;

NOW, THEREFORE, it is hereby ordained by the City Council of the City of Florence as follows:

Section 1. Use of Face Coverings. Effective immediately:

- (a) All persons entering any Establishment Open to the Public or Foodservice Establishment as defined below in the City of Florence must wear a face covering while inside the establishment. For purposes of this Ordinance, the term “Establishment Open to the Public” shall mean any organization, establishment, facility, or retail business open to the public within the City of Florence. “Foodservice Establishment” shall mean any establishment

within the City of Florence that sells prepared food on a dine-in, delivery, carry-out, or drive-through basis. The business shall not have responsibility for enforcing this requirement, but it shall post conspicuous signage at all entrances informing its patrons of the requirements of this section.

(b) All Establishments Open to the Public and Foodservice Establishments in the City shall require their staff and employees to wear a face covering at all times while having face to face interaction with the public and 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.

(c) "Face Covering" as used herein 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 they are worn such that they securely cover the person's nose and mouth.

Section 2. Exemptions. Face Coverings shall not be required as follows:

(a) in outdoor or unenclosed areas appurtenant to Establishments Open to the Publics or Foodservice Establishments in which social distancing of at least six feet is possible and observed;

(b) for people whose religious beliefs prevent them from wearing a Face Covering;

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

(d) for children under six (6) years old, provided that adults accompanying children age two (2) through five (5) shall use reasonable efforts to cause those children to wear Face Coverings while inside the enclosed area of any Establishments Open to the Public or Foodservice Establishment;

(e) for patrons of Foodservice Establishments while they are dining;

(f) in private offices and workspaces in which social distancing of at least six feet is possible and observed;

(g) when complying with directions of law enforcement officers;

(h) 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 or while swimming; and/or

(i) while exclusively with members of a family or the same household, and no person other than such family or household is within the same enclosed area.

Section 3. Civil Infraction.

(a) Any person violating the provisions of Section 1(a) of this Ordinance by failing to wear a Face Covering when required shall be guilty of a civil infraction, punishable by a penalty of \$25.00. Each day of a continuing violation of this Ordinance shall be considered a separate and distinct offense.

(b) A person who fails to comply with Section 1(b) 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. Repeated violations of this Ordinance are 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 1(b) 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.

Section 4. Suspension of Contrary Local Provisions. During the term of this Ordinance, any ordinance, resolution, policy, or bylaw of the City of Florence that conflicts with the provisions hereof shall be and is hereby suspended and superseded.

Section 5. Expiration of Ordinance. This Ordinance shall expire automatically at Midnight on September 11, 2020 unless its Term is extended by City Council by resolution for one or more additional terms, each such term for no more than sixty days, provided that the aggregate term of the Emergency Term, including all such extensions, does not exceed six months.

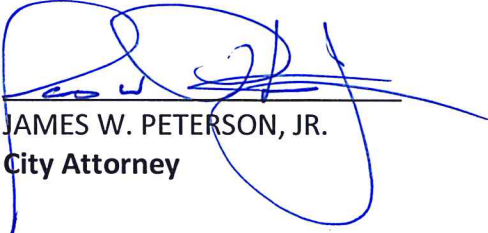
Section 6. Severability. Should any provision, section, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, or words of this Ordinance as hereby adopted shall remain in full force and effect.

Section 7. Ratification. This Emergency Ordinance serves as ratification of the Proclamation dated July 2, 2020.

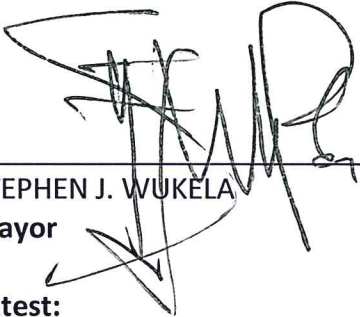
Section 8. Effective Date and Time. This Emergency Ordinance shall take immediately upon its adoption by at least two-thirds of the Councilmembers present.

ADOPTED THIS 13th DAY OF JULY, 2020.

Approved as to form:

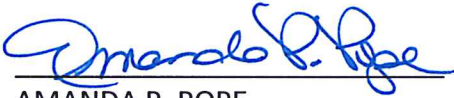


JAMES W. PETERSON, JR.
City Attorney



STEPHEN J. WUKELA
Mayor

Attest:



AMANDA P. POPE
Municipal Clerk