

2020-23

**EMERGENCY ORDINANCE #8 OF THE TOWN OF LEXINGTON, SOUTH
CAROLINA REQUIRING INDIVIDUALS TO WEAR FACE COVERINGS IN
GROCERY STORES, PHARMACIES AND OTHER RETAIL ESTABLISHMENTS
WHICH ARE OPEN TO THE PUBLIC**

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;

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;

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;

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;

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;

WHEREAS, the Governor of the State has subsequently declared a continued State of Emergency in a series of Executive Orders which extend through the current time period;

WHEREAS, the State continues to see a large number of identified new COVID-19 cases, and as of August 10, 2020, the South Carolina Department of Health and Environmental Control (“DHEC”) is reporting that there have been 100,431 confirmed COVID-19 cases and 1,966 confirmed COVID-19 deaths in the State;

WHEREAS, if COVID-19 cases continue to increase in the State and in the Town of Lexington, 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;

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 “[t]o 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;”

WHEREAS, the Town Council of the Town of Lexington 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 of Lexington’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;

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;

WHEREAS, this Ordinance has been approved by at least two-thirds of the Councilmembers present;

NOW, THEREFORE, be it ordained by the Town Council of the Town of Lexington as follows:

Section 1.

A. Use of Face Coverings.

- 1) All individuals within the Town of Lexington are required to wear Face Coverings while inside the enclosed area of any Grocery Store, Pharmacy or other retail establishment which is open to the public or where employees are required to interact with the public;
- 2) All Grocery Store, Pharmacy or other retail establishments shall require staff to wear, and those staff shall wear, Face Coverings 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; and
- 3) Businesses subject to this ordinance are required to post appropriate signage at each public entrance to the building informing anyone entering the building of these requirements, and the operator of the business shall ensure that all people entering the building are in compliance.
- 4) In situations where social distancing (maintaining 6 feet separation) isn’t possible within the Town of Lexington municipal boundaries the wearing of a mask or face covering is strongly encouraged.

B. Exemptions. Face Coverings shall not be required:

- 1) In outdoor or unenclosed areas in which social distancing of at least six feet is possible and observed;
- 2) For people whose religious beliefs prevent them from wearing a Face Covering;
- 3) For those who cannot wear a Face Covering due to a medical or behavioral condition;
- 4) For children under the age of ten years old, provided that adults accompanying children age two through ten shall use reasonable efforts to cause those children to wear Face Coverings while inside the enclosed area of any Retail Establishment as described above.

- 6) When complying with directions of law enforcement officers;
- 7) 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;

Section 2. Suspension of Contrary Local Provisions. During the Emergency Term any Ordinance, Resolution, Policy, or Bylaw of the Town of Lexington that conflicts with the provisions hereof shall be and is hereby suspended and superseded.

Section 3. Expiration of Ordinance; Extension of Emergency Term. As provided by S.C. Code § 5-7-250(d), this Ordinance shall expire automatically as of the sixty-first day following the date of enactment (the "Emergency Term"). Notwithstanding the foregoing, however, Council may extend the Emergency Term by Emergency Ordinance for one or more additional terms, each of no more than sixty days, provided that the total duration of the Emergency Term shall not exceed six months without enacting an ordinance in the ordinary course.

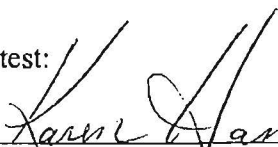
Section 4. Severability. Should any provision, section, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, or words of this Ordinance as hereby adopted shall remain in full force and effect.

Section 5. Effective Date and Time. This Emergency Ordinance #8 shall take effect immediately upon the date of the signature affixed below. **Note:** this ordinance shall continue in effect for its duration so long as SCDHEC classifies Lexington County as at least a Moderate Incident County (*Two-Week Cumulative Incident Rate* of more than 100 new cases per 100k for the two-week period). **However,** in the event SCDHEC determines Lexington County is classified as a Low Incident County (*Two-Week Cumulative Incident Rate* of 100 or fewer new cases per 100k for the two-week period), this ordinance shall automatically be suspended without the necessity for further action by Town Council. In the event that Lexington County's classification moves from Low Incident County to a classification of Moderate Incident County or higher, the ordinance shall be reinstated as long as the Emergency Term is still in effect.

Approved and enacted under the aforementioned Emergency Ordinance Procedures this 31st day of August 2020.



Mayor Steve MacDougall

Attest: 

Assistant Municipal Clerk Karen Hanner

Date of Ratification:

