

EMERGENCY ORDINANCE No. 2020-22

TOWN OF BLUFFTON, SOUTH CAROLINA

**AN EMERGENCY ORDINANCE OF THE TOWN OF BLUFFTON, SOUTH CAROLINA,
REQUIRING INDIVIDUALS TO WEAR FACE COVERINGS IN CERTAIN
CIRCUMSTANCES IN LIGHT OF THE COVID-19 PANDEMIC; AND MATTERS
RELATED THERETO; AND SEVERABILITY**

WHEREAS, it is well recognized that SARS-CoV-2 the virus that causes the disease COVID-19 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 declared a National Emergency for the United States and its territories in an effort to reduce the spread of the virus; 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 continued to declare that a State of Emergency exists throughout South Carolina and has issued the following Executive Orders extending the State of Emergency throughout the State: 2020-15, 2020-23, 2020-29, 2020-35, 2020-38, 2020-40, 2020-42, 2020-44, 2020-48, 2020-53, 2020-56, 2020-59, 2020-62, and 2020-63; and,

WHEREAS, COVID-19 has spread across the state with the South Carolina Department of Health and Environmental Control (“SCDHEC”) confirming that localized person-to-person contact in South Carolina enables a significant risk of exposure, propagates the spread of COVID-19 infection and creates an extreme public health risk; and

WHEREAS, SC DHEC’s two-week incidence rate of COVID-19 infections places Beaufort County in the Moderate Incidence category; 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, 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, taking measures to control outbreaks minimizes the risk to the public and contributes to the health and safety of the Town’s residents and limits the spread of infection in our community 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 Town is taking steps to try to protect the citizens and employees of the Town from increased risk of exposure; and

WHEREAS, considering the foregoing, Council adopted Emergency Ordinance 2020-10 on June 30, 2020, which prescribed requirements for face coverings as specified in Section 2 of this ordinance; and

WHEREAS, Emergency Ordinance 2020-10 was renewed for an additional 60 days by Emergency Ordinance 2020-18 on August 26, 2020; and

WHEREAS, data indicate a correlation between mandated requirements for face coverings and a downward trend in positive COVID-19 cases; and

WHEREAS, in response to the continuing health risk associated with the COVID-19 pandemic, Council deems the wearing of face coverings to be an effective infection control strategy; and

WHEREAS, Emergency Ordinance 2020-18 expires on November 1, 2020 and Council is continuing to take measures to control outbreaks and minimize public health risks.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BLUFFTON, SOUTH CAROLINA, in accordance with the forgoing as follows:

Section 1. Definitions.

- (a) “Face Covering” 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 that they are worn such that they securely cover the person’s nose and mouth.
- (b) For the purposes of Section 3(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 2. Requirements for Face Coverings.

- (a) All persons entering any building open to the public in the Town must wear a face covering while inside the building.
- (b) All restaurants, retail establishments of every description, salons, grocery stores, and pharmacies in the limits of the Town shall require their employees to wear a Face Covering at all times that the employees are in any area where the general public is allowed. This requirement also applies to all persons providing or utilizing over-the-road public or commercial transportation, including tours; and all businesses or employees while interacting with people in outdoor spaces, including, but not limited to, curbside pickup, delivery, and service calls. All such businesses must provide face coverings or materials for the making of such face coverings for their employees. Such coverings or materials may be made available staff-wide or individually upon employee request so long as the result is the organization-wide use of face coverings. Nothing shall prevent an employee from fashioning his or her own cloth face mask. If a worker or customer refuses to wear a cloth face covering for other than medical reasons, a business may decline entry or service to that individual.
- (c) The following individuals are exempt from this Ordinance: any person under the age of eight, or who is unable to safely wear a Face Covering due to age or an underlying health condition, or who is unable to remove the Face Covering without the assistance of others; and any person traveling in a personal vehicle, or when a person is alone or is in the presence of only household members in an enclosed space, and people who are actively drinking or eating. This Ordinance does not relieve business establishments and restaurants from other social distancing requirements imposed by the Governor's Executive Orders.

Section 3. Penalties.

- (a) A person who fails to comply with Section 2.(a) or Section 2.(b) of this Ordinance shall be guilty of a civil infraction, punishable by a noncriminal fine of not more than \$50.00. No state assessments will be assessed on this civil infraction/noncriminal fine.
- (b) 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 of Ordinances, 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,

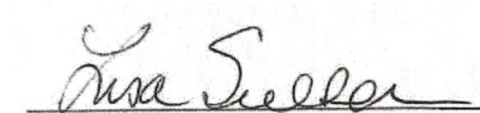
or other means provided for by the Town Code of Ordinances and laws of this state. The foregoing notwithstanding, every effort shall be made to bring the business into voluntary compliance with the terms of this Ordinance prior to the issuance of any citation.

- (c) The Town of Bluffton Municipal Court shall have jurisdiction on any and all infractions and/or suspension/revocation of permits or licenses as set out in this Section 3.

Section 4. Severability. If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 5. Effective Date; Expiration. The provisions hereof shall be adopted upon a single hearing and two-thirds vote of the Governing Body, and shall be effective on October 13, 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 ENACTED AS AN EMERGENCY ORDINANCE BY THE TOWN COUNCIL OF THE TOWN OF BLUFFTON, SOUTH CAROLINA, AT AN EMERGENCY MEETING, and approved at a meeting duly assembled by no less than an affirmative vote of two-thirds of the members of the Governing Body present, on this 13th day of October, 2020.



Lisa Sulka, Mayor
Town of Bluffton, South Carolina

ATTEST:



Kimberly Chapman, Town Clerk
Town of Bluffton, South Carolina