



REQUEST FOR COUNCIL ACTION

City of Greenville, South Carolina

Agenda Item No.

17a

TO: Honorable Mayor and Members of City Council
FROM: John F. McDonough, City Manager

Ordinance/First Reading Ordinance/Second & Final Reading Resolution/First & Final Reading Information Only

AGENDA DATE REQUESTED: February 8, 2021

ORDINANCE/RESOLUTION CAPTION:

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

SUMMARY BACKGROUND:

This emergency Ordinance extends the City's temporary Ordinance concerning the use of face coverings in certain public setting during the ongoing COVID-19 pandemic.

IMPACT IF DENIED:

The City's emergency Ordinance will lapse.

FINANCIAL IMPACT:

N/A

REQUIRED SIGNATURES

Department Director _____

OMB Director _____

City Attorney _____

City Manager _____

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Michael Pitts

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John McDonough

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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 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 declared a state of emergency for the State of South Carolina, which has been subsequently renewed and remains in place; and

WHEREAS, on March 18, 2020, City Council declared a state of emergency for the city of Greenville (“City”); 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 significant risk of exposure and infection and creating an extreme public health risk; and

WHEREAS, as of December 1, 2020, immediately prior to the last adoption of the City's emergency ordinance requiring face coverings, the total number of cases in South Carolina was approximately 218,912 and the number of deaths was 4,404, and the total number of cases in Greenville County was approximately 24,219 and the number of deaths was 412; and

WHEREAS, as of January 30, 2021, the total number of cases in South Carolina is approximately 445,916 and the number of deaths is 7,283, and the total number of cases in Greenville County is approximately 56,186 and the number of deaths is 728; 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, the CDC recommends that all people two years of age and older wear a mask in public settings and when around others who do not reside in the same household; and

WHEREAS, City Council enacted Emergency Ordinance Numbers 2020-62, 2020-69, 2020-79, and 2020-95 on June 22, 2020, August 24, 2020, October 12, 2020, and December 14, 2020, respectively, requiring individuals to wear face coverings in certain circumstances; and

WHEREAS, according to SCDHEC, “[w]hen comparing jurisdictions that have mask requirements in place to those that don’t, the jurisdictions with mask requirements have shown a 46.3% greater decrease in the total number of cases during the four weeks after the requirements were implemented”; and

WHEREAS, in Executive Order Number 2020-73, Governor Henry McMaster urged municipalities to enact measures requiring individuals to wear a face covering; and

WHEREAS, it is vitally important that we continue to work together to decrease the widespread proliferation of COVID-19 among us; and

WHEREAS, in light of the foregoing, and in order to protect, preserve, and promote the general health, safety and welfare of the community, City Council deems it proper and necessary to adopt this emergency ordinance in order to continue those requirements set forth in Emergency Ordinance Numbers 2020-62, 2020-69, 2020-79, and 2020-95;

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

1. The term “Retail Establishment” shall mean any retail business, organization, establishment, or facility open to the public within the corporate limits of the City, including without limitation:
 - a) grocery stores, convenience stores, and any other establishment engaged in the retail sale of non-prepared food;
 - b) commercial stores engaged in the retail sale of goods or services to the public, including without limitation, sporting goods stores; furniture and home-furnishings stores; clothing, shoe, and clothing-accessory stores; jewelry, luggage, and leather goods stores; department stores; hardware and home-improvement stores; book, craft, and music stores; florists and flower stores; and all other stores that sell supplies for household consumption or use;
 - c) pharmacies and other stores that sell medications or medical supplies;
 - d) alcoholic beverage stores; and
 - e) laundromats and dry cleaners.

The term “Face Covering” shall mean a covering of the nose and mouth that is secured to the head with ties, loops, or loops over the ears or is otherwise wrapped around the lower face. A Face Covering can be made of natural or synthetic fibers and can be handmade or improvised from other items. A face shield that covers the nose and mouth and extends below the chin as well as medical-grade masks and respirators shall also meet the definition of Face Covering; however, the latter should be reserved for use by healthcare workers and medical first responders.

2. All persons entering a Retail Establishment must wear a Face Covering while inside the establishment. The Retail Establishment 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.
3. All Retail Establishments, salons, barber shops, and spas in the City must require their employees to wear a face covering at all times while having face to face interaction with the public.
4. Restaurants, and employees, customers, patrons, suppliers, vendors, and visitors of restaurants are subject to the applicable restrictions and conditions set forth in Executive Order Number 2020-73, and any subsequent Executive Order of the Governor pertaining to the same.
5. 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.
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 \$25.

7. A person who fails to comply with Section 3 of this Ordinance shall be guilty of a civil infraction, punishable by a fine of not more than \$100. 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 Sections 3 and 7 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.
8. All prior emergency Ordinances of the City concerning the wearing of Face Coverings are hereby repealed and superseded by this Ordinance.
9. 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.
10. This emergency Ordinance 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 _____ DAY OF _____, 2021.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

REVIEWED:

CITY MANAGER