

STATE OF SOUTH CAROLINA)
) EMERGENCY ORDINANCE NO.:2020-04
COUNTY OF BAMBERG)

AN EMERGENCY ORDINANCE REQUIRING USE OF FACE COVERINGS AND OTHER PROTECTIVE MEASURES IN EMERGENCIES AND CERTAIN OTHER SITUATIONS; AND MATTERS RELATED THERETO

WHEREAS, the 2019 Novel Coronavirus (“COVID-19”) is a respiratory disease that can result in serious illness or death, is passed 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), and 2020-40 (June 11) and 2020-42 (June 26); and

WHEREAS, the State is experiencing a dramatic increase in the number of identified new COVID-19 cases, and as of July 10, 2020, the South Carolina Department of Health and Environmental Control (“DHEC”) is reporting that there have been 52,273 confirmed COVID-19 cases and 922 confirmed COVID-19 deaths in the State and, in addition, other State and local statistics support the conclusion that there has been a recent dramatic increase in cases; and **WHEREAS**, the CDC and DHEC predict that confirmed COVID-19 cases will continue to increase in the State and in the County of Bamberg (the “County”) in the immediate future unless certain protections are immediately observed; and

WHEREAS, that prediction means there will be an increase in deaths from COVID-19 and, in addition, 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 South Carolina Attorney General, on June 25, 2020, found it within the police powers of local South Carolina governments to enact face covering requirements as a means of preventing the spread of COVID-19; and

WHEREAS, S.C. Code § 4-9-130 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 designated as such and shall contain a declaration that an emergency exists and describe the emergency. 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, Bamberg County Council (“Council”), the governing body of the County, hereby declares (and has previously done so in Emergency Ordinances addressing other issues associated with Covid-19) that an emergency exists, and continues, as described in the previous Preamble paragraphs of this ordinance; and

WHEREAS, Council 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 County’s police powers under Home Rule and S.C. Code § 4-9-25 to require that individuals wear face coverings in certain situations and locations within the unincorporated areas of the County; 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, BE IT ENACTED by Bamberg County Council, in meeting duly assembled, as follows:

Section 1. Definitions. As used herein, the terms below shall have the following meanings:

- a. “Dining” means the actual transfer of food or beverage to the mouth.
- b. “Establishment” means a Foodservice Establishment or Retail Establishment.
- c. “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.

- d. "Foodservice Establishment" means any establishment that sells prepared food on a dine-in, delivery, carry-out, or drive-through basis.
- e. "Responsible Person," with respect to an Establishment, means any individual associated with the Establishment who has the authority and ability to enforce the requirements of the Ordinance within the Establishment, such as an owner, manager, or supervisor. "Responsible Person" may also include an employee or other designee who is present at the Establishment but does not have the title of manager or supervisor, but who has the temporary or designated authority and ability to ensure that the requirements of this Ordinance are met while the Establishment is open to the public.
- f. "Retail Establishment" means any retail business, organization, establishment, or facility open to the public, including without limitation:
 - 1. grocery stores, convenience stores, and any other establishment engaged in the retail sale of non-prepared food;
 - 2. 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;
 - 3. pharmacies and other stores that sell medications or medical supplies;
 - 4. alcoholic beverage stores; and
 - 5. laundromats.

Section 2. Use of Face Coverings. Effective as of 6:00 AM on Friday, July 17, 2020, within the unincorporated areas of the County:

- a. all customers are required to wear Face Coverings while inside the enclosed area of any Retail Establishment or Foodservice Establishment;
- b. all 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;
- c. All restaurants, retail stores, salons, grocery stores, and pharmacies in the County must require their employees to wear a face covering at all times while having face to face interaction with the public;
- d. all Foodservice Establishments shall require staff who interact with customers (including, without limitation, delivery personnel) to wear, and those staff shall wear, Face Coverings while working;
- e. All persons entering any building open to the public must wear a face covering while inside the building. This paragraph does not apply to religious establishments. However, the use of face coverings is recommended during religious activities as well;
- f. While providing or utilizing public transportation, included, but not limited to buses, taxis, Uber or Lyft;
- g. When participating in a permitted or allowable gathering; and

- h. While interacting with people in outdoor spaces, including but not limited to curbside pickup, delivery and service calls.

Section 3. Exemptions. Face Coverings shall not be required:

- a. in outdoor or unenclosed areas appurtenant to Retail Establishments 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 or 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, anyone who has trouble breathing, or is unconscious, or incapacitated;
- d. for children under the age of ten (10) years old, provided that adults accompanying children age two (2) through nine (9) years of age shall use reasonable efforts to cause those children to wear Face Coverings while inside the enclosed area of any Retail Establishment or Foodservice Establishment;
- e. In personal vehicles;
- f. for patrons of Foodservice Establishments while they are dining, seated or socially distanced consuming food and/or beverage;
- g. in private, individual offices and for employees where they are separated from other employees and customers by a plexiglass shield;
- h. when complying with directions of law enforcement officers;
- i. 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;
- j. 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; and
- k. During outdoor physical activity, provided the active person maintains a minimum distance of six (6) feet from other people at all times.

Section 4. Individual Violations: Civil Infraction. Any person violating the provisions of this Ordinance by failing to wear a Face Covering when required shall be guilty of a civil infraction, punishable by a penalty of not more than \$25.00. Each day of a continuing violation of this Ordinance shall be considered a separate and distinct offense.

Section 5. Responsible Person Violations: Civil Infraction. Any Responsible Person violating the provisions of this Ordinance by failing to require employees of the Establishment to wear a Face Covering when required shall be guilty of a civil infraction, punishable by a penalty of not more than \$100.00. Each day of a continuing violation of this Ordinance shall be considered a separate and distinct offense.

Section 6. Responsible Person Violations: Revocation of Permits and Licenses. In addition to the penalties established by Section 5 hereof, repeated violations of this Ordinance by a Responsible Person by failing to require employees of the Establishment to wear a Face Covering may, subject to all procedural protections set forth in the County Code of Ordinances, result in the

suspension or revocation of any County permit or business license issued to business where the repeated violations occurred.

Section 7. Responsible Person Violations: Public Nuisance. In addition to the penalties established by Section 5 hereof, repeated violations of this Ordinance by a Responsible Person by failing to require employees of the Establishment to wear a Face Covering are additionally hereby declared to be a public nuisance, which may be abated by the County 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 Establishments into voluntary compliance with the terms of this Ordinance prior to the commencement of any enforcement action.

Section 8. Duties of Establishments and Responsible Persons. Establishments and Responsible Persons shall have a duty to enforce the provisions of this Ordinance only against employees of the Establishment. Without limiting the generality of the foregoing, no Establishment or Responsible Person shall have any duty to require that customers, visitors, or other members of the general public wear Face Coverings.

Section 9. Suspension of Contrary Local Provisions. During the Emergency Term (as defined in Section 12 below), any ordinance, resolution, policy, or bylaw of the County that conflicts with the provisions hereof shall be and is hereby suspended and superseded.

Section 10. Expiration of Ordinance; Extension of Emergency Term. As provided by S.C. Code § 4-9-130, 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 of business.

Section 11. 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 12. Effective Date and Time. This emergency Ordinance shall take effect at 6:00 AM on Friday, July 17, 2020, and shall last for sixty (60) days, unless earlier revoked.

Section 13. Jurisdiction/Enforcement.

- a. The County hereby accepts jurisdiction from any municipality in the County to enforce this Ordinance within the municipality's boundaries as long as the following occurs:
 1. The municipality notifies the County in writing that it has voted to transfer jurisdiction to the County to enforce the Ordinance within the municipality's corporate boundaries; and
 2. The County Administrator countersigns the municipality's written notice accepting said enforcement jurisdiction.

- b. The Magistrates Courts of the County shall collect the fines due for any infraction of the provisions of this Ordinance.
- c. All Code enforcement personnel of the County and Law Enforcement Deputies of the County Sheriff shall have the power to enforce the provisions of this Ordinance by issuing a Uniform Ordinance Summons.


Section 15. Should any part or provision of this Ordinance be deemed unconstitutional or unenforceable by any court of competent jurisdiction, such determination shall not affect the rest and remainder of this Ordinance, all of which is hereby deemed separable.

Section 16. All ordinances, orders, resolutions, and actions of Bamberg County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded.


Section 17. This Ordinance shall take effect and be in full force and effect immediately after enactment by Bamberg County Council.

ENACTED AND EFFECTIVE in meeting, duly assembled, this 13th day of July, 2020.

ATTEST:



Rose R. Shepherd
Clerk to Bamberg County Council



Sharon Hammond
Chairman, Bamberg County Council