



**EMERGENCY ORDINANCE
RELATED TO FACE COVERINGS OR MASKS
REQUIRED IN SPECIFIC PUBLIC SETTINGS AND
RESTIRCTIONS AND CONDITIONS ON
OPERATIONS OF RESTAURANTS AND BARS**

Section 1. Chapter 21, Section 111 of the Code of the City of Charleston is hereby amended by deleting the struck through text, which shall read as follows:

“Sec. 21-111. - Disguised persons; Halloween exceptions.

- (a) No person over sixteen (16) years of age shall appear on any street, highway, alley, public park or other public place in the city in any disguise which conceals the identity of such person, without the permission of the chief of police.”

Section 2. Findings. City Council does hereby make the following findings.

WHEREAS, in December 2019, an outbreak respiratory illness due to a novel coronavirus (COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, across the world, including the United States; and,

WHEREAS, it is well recognized that COVID-19 presents a public health concern that requires extraordinary protective measures and vigilance; and,

WHEREAS, on January 23, 2020, the Center for Disease Control (“CDC”) activated its Emergency Response System to provide ongoing support for the response to COVID-19; and,

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency to assist with combating the coronavirus, and,

WHEREAS, on March 13, 2020, Governor Henry McMaster (the “Governor”) declared a state of emergency in South Carolina, Executive Order 2020-10, based on a determination that “COVID-19 poses an actual or imminent public health emergency”; and,

WHEREAS, on March 16, 2020, Mayor John J. Tecklenburg declared a local state of emergency in the City of Charleston; and,

WHEREAS, the local state of emergency has been extended several times and ~~is~~ **was** set to expire on July 15, 2020; and,

WHEREAS, City Council has enacted a number of emergency ordinances in an effort to decrease the risk of exposure to COVID-19 in our city; and,

WHEREAS, both the State of South Carolina and the City of Charleston remain in a state of emergency due to the COVID-19 pandemic; and,

WHEREAS, the State and City's efforts to slow the spread of the virus, by way of limiting public gatherings and certain retail operations, contributed to the flattening of the curve; however, maintaining such efforts became unviable; and,

WHEREAS, since returning to more public interaction, the number of COVID-19 cases in the State and the city have dramatically increased; and,

WHEREAS, as of June 24, 2020, there were 26,572 confirmed cases throughout the State of South Carolina and 673 deaths, with 2,251 cases in Charleston County, with 20 deaths and 695 cases in Berkeley County, with 20 deaths; and,

WHEREAS, on June 25, 2020, in response to the dramatic spike in the number of COVID-19 cases in Charleston and Berkeley Counties, Council approved Emergency Ordinance 2020-84 requiring face coverings in certain circumstances, effective July 1, 2020; and,

WHEREAS, as of July 9, 2020, it was reported that there is no country in the world where confirmed coronavirus cases are growing as rapidly as they are in South Carolina; and,

WHEREAS, as of July 11, 2020, the number of cases continued to rise at an alarming pace, to the extent that there were at least 54,538 confirmed cases throughout the State of South Carolina and 905 deaths, with 7,553 cases in Charleston County, with 58 deaths and 2,205 cases in Berkeley County, with 25 deaths; and,

WHEREAS, as of January 2, 2021, DHEC reported that there were at least 325,472 confirmed and probable cases of COVID-19 in South Carolina, including 5,484 deaths and the positivity rate is 15.9% of individual test results; this includes 25,041 confirmed and probable cases in Charleston County with 323 deaths and 9,533 confirmed and probable cases in Berkeley County with 113 deaths; and,

WHEREAS, as of March 1, 2021, DHEC reported there are at least 517,976 confirmed and probable cases of COVID-19 in South Carolina, including 8,562 deaths and the positivity rate is decreasing, with 4.1% of individual test results; this includes 38,212 confirmed and probable cases in Charleston County with 452 deaths and 14,986 confirmed and probable cases in Berkeley County with 168 deaths; and,

WHEREAS, as of March 8, 2021, the CDC COVID Tracker shows that the level of COVID transmission in Charleston and Berkeley Counties is within .2 percent per 100,000 persons of being classified as locations of high transmission of the virus; and,

WHEREAS, the Centers for Disease Control and Prevention (“CDC”) and SCDHEC strongly advise, in addition to social distancing, being vaccinated, and avoiding crowds, the use of cloth face coverings to slow the spread of COVID-19; and,

WHEREAS, the newly released CDC guidelines for persons fully vaccinated recommend the continued wearing of masks in public; and,

WHEREAS, the medical and scientific evidence around COVID-19 is ever-evolving, and the CDC has stated that COVID-19 spreads mainly in large, in-person gatherings and crowds where it is difficult to be socially distancing, and from person to person through respiratory droplets produced when an infected person coughs, sneezes, talks, or raises their voice while shouting or singing; and,

WHEREAS, playing loud music in establishments requires customers in order to be heard are required to shout over the top of the music which sprays the virus much further than a normal toned conversation; and in addition, loud music draws crowds which makes it difficult for maintaining social distancing; and,

WHEREAS, taking measures to control outbreaks and to lessen the spread of the virus from person to person minimizes the risk to the public, maintains the health and safety of the City’s residents, and limits the spread of infection in our community and within the healthcare delivery system; and,

WHEREAS, the City of Charleston is a densely populated area visited by tourists from across the country and globe which increases the chances of transmission of many different strains of the virus in our community; and,

WHEREAS, in order to protect, preserve, and promote the general health, safety and welfare and the peace and order of the community, the City has and will continue to take steps to try to protect the citizens, employers, and employees of the City from an increased risk of exposure to COVID-19; and,

WHEREAS, Council finds that it is in the best interest of the public peace, health, welfare, and safety, and to help preserve the lives of citizens of the City of Charleston, to require that masks, consisting of at least simple cloth face coverings, be worn by persons when interacting in public in the City of Charleston including in restaurants and bars; and to strongly urge restaurants and bars to follow certain guidelines to minimize the spread of COVID-19.

Section 3. Face Covering or Mask Strongly Encouraged in All Public Places.

The use of a face covering or mask is strongly encouraged by every person within the boundaries of the City of Charleston in all public places, including sidewalks, streets, and public rights of ways.

Section 4. Face Covering or Mask Required in Specific Public Settings.

The use of a face covering or mask is required by every person within the boundaries of the City of Charleston as detailed below:

1. All persons entering any City-owned building or facility open to the public in the City must wear a face covering while inside the building;
2. All restaurants, retail stores that include but are not limited to salons, barber shops, grocery stores, pharmacies, or other buildings open to the public in the City must require their employees to wear a face covering at all times while having face-to-face interaction with the public;
3. All patrons entering any restaurants, retail stores that include but are not limited to salons, barber shops, grocery stores, pharmacies, or other buildings open to the public in the City must wear a face covering at all times while inside the facility;
4. While providing or utilizing public or commercial transportation; and,
5. When participating in a City permitted or allowable gathering.

Section 5. Exceptions to Face Covering or Mask Requirement.

While the City is requiring the use of face coverings or masks in public as set forth in Section 4, the following shall be exempt from the provisions of this emergency ordinance:

1. 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;
2. While actively smoking, drinking, or eating;
3. Customers seated in a restaurant or at a bar so long as they maintain a minimum of six feet from other persons in the establishment;
4. In an outdoor or unenclosed area appurtenant to retail establishments or foodservice establishments in which social distancing of at least six feet is possible and observed;
5. For people whose religious beliefs prevent them from wearing a face covering;

6. For children under 10 years old, provided that adults accompanying children ages two through 10 shall use reasonable efforts to cause those children to wear face coverings while inside the enclosed area of any retail establishment or food service establishment;
7. In private, individual offices, or in an office environment when a safe social distancing of at least 6 feet can be maintained;
8. When complying with directions of law enforcement officers;
9. In settings where it is not 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,
10. Police officers, fire fighters and other first responders when not practical or engaged in a public safety matter of an emergency nature.

Section 6. **Restrictions and Conditions on Operations of Restaurants and Bars.**

During the duration of this emergency ordinance, in accordance with Governor Henry McMaster’s Executive Order Nos. 2021-11 and 2021-12, restaurants and bars operating in the city of Charleston are not required to limit their occupancy rate and should adhere to the guidelines of operations included in Executive Order Nos. 2021-11 and 2021-12 and the restrictions set forth in Section 4 of this Ordinance, subject to any exceptions set forth in Section 5 of this Ordinance, and as set forth below:

1. Restaurants that elect to provide indoor or outdoor customer dining services for on-premises or dine-in consumption, as authorized herein, should take reasonable steps to incorporate, implement, comply with, and adhere to any applicable sanitation guidelines promulgated by the CDC, DHEC, or any other state or federal public health officials, as well as relevant industry guidelines, to limit exposure to, and prevent the spread of, COVID-19.
2. Restaurants shall require that all employees, customers, patrons, suppliers, vendors, and other visitors wear face coverings or masks.
3. Restaurants should space indoor and outdoor tables at least six (6) feet apart, to the extent possible, to ensure that customers and patrons are at least six (6) feet apart from any other party or group.
4. Restaurants should limit seating at each table to no more than eight (8) customers and patrons, exclusive of family units or members of the same household.
5. Restaurants should adopt and enforce a process to ensure that customers and patrons are able to maintain a minimum of six (6) feet of separation from other parties while waiting to be seated. If there is any indoor or outdoor waiting area, Restaurants should use tape or other markings to help customers and patrons identify and maintain a minimum of six (6) feet of separation from other parties.

6. Restaurants should not allow patrons and customers to stand or congregate in any bar area. Restaurants should remove bar stools or arrange them in a manner that will ensure that customers and patrons are able to maintain a minimum of six (6) feet of separation from the other parties.
7. Restaurants should post signage at each public entrance informing customers, patrons, suppliers, vendors, and other visitors that entry is prohibited for individuals who are experiencing symptoms of COVID-19 or who have tested positive for COVID-19 within the preceding fourteen (14) days.
8. Restaurants should conduct, prior to or at the beginning of each shift, an employee survey and screening process, which should include taking each employee's temperature before they begin their shift and inquiring about common symptoms of COVID-19.
9. Restaurants should immediately excuse and exclude any employees indicating symptoms of COVID-19 or who have tested positive for COVID-19 or have been in contact with someone who has tested positive for COVID-19 within the preceding fourteen (14) days.
10. Restaurants should actively encourage and require employees who are sick, who have symptoms of COVID-19, who have tested positive for COVID-19, or who have recently had close contact with a person who has tested positive for COVID-19 to stay at home, and should develop policies to encourage any such employees to stay at home without fear of reprisal or adverse employment action on this basis.
11. Restaurants should remove common-use condiments, such as salt, pepper, and ketchup, from tables. These items should be provided upon request and cleaned and sanitized between uses if single-use options are not available.
12. Restaurants should not place utensils on a table until after a customer or patron is seated and, if possible, should offer disposable single-use utensils.
13. Restaurants should utilize disposable paper menus if possible or sanitize menus after each use.
14. Restaurants should use approved sanitizing solutions to clean tables, chairs, and check presenters after each table turn or seating.
15. Restaurants should provide a cleaning station or alcohol-based hand sanitizer at all entry points.
16. Restaurants should discontinue self-service buffets or food stations to prevent customers and patrons from reusing service utensils to avoid potential physical contamination; however, employees may be permitted to dispense food via cafeteria-style buffet service.
17. Restaurants should minimize, modify, or discontinue services that allow customers and patrons to fill or refill their own beverage cups.
18. Restaurants should sanitize doorknobs and other shared or frequently touched surfaces as much as possible between newly arriving parties with approved sanitizing solutions.
19. Restaurants should only use kiosks or touch screens for customers and patrons if they can be sanitized between uses and should encourage touchless payment operations like credit cards where no signature required.

Section 7. Compliance with Noise Ordinances.

During the duration of this emergency ordinance, bars and restaurants shall continue to comply with the City’s existing noise ordinances, Sec. 21-16 and Sec. 17-126. Code of the City of Charleston.

Section 8. Posting Signage and Refusing Service for Failure to Comply with Ordinance.

Businesses owners and operators shall not have responsibility for enforcing the requirements set forth in Sections 4 and 6 of this Ordinance, should post conspicuous signage at all entrances informing persons of the requirements of this Ordinance, and may refuse service to customers who, after having been provided a warning and copy of this Ordinance by the business, fail to comply with this Ordinance.

Section 9. Enforcement.

1. The City of Charleston Fire Department, Office of the Fire Marshal, Police Department, Building Inspections Division, and their designees, and Livability Code Enforcement Officers are hereby authorized to inspect and determine whether persons are in compliance with the Ordinance. The City will work with the business community to develop marketing strategies, signage, and mask availability, and will work with businesses, local organizations and citizens to educate them on the requirements of the Ordinance as they come into compliance with it. For the duration of this Ordinance, it is unlawful for any person to willfully fail or refuse to comply with any lawful order or direction of the individuals or designees issued pursuant to this Ordinance.

2. Pursuant to Gov. Henry McMaster’s Executive Order Nos. 2021-11 and 2021-12, officers of the Charleston Police Department are authorized to prohibit or disperse any congregation or gathering of people, unless authorized or in their homes, in groups of three (3) or more people, if any such law enforcement official determines, in his or her discretion, that any such congregation or gathering of people poses, or could pose, a threat to public health.

All residents and visitors of the city of Charleston are strongly urged to practice “social distancing” in accordance with CDC and DHEC guidance and take appropriate precautions to avoid potential exposure to, and prevent the spread of, COVID-19, including limiting social gatherings to ten (10) persons or less on public streets, sidewalks, parks, and all other properties owned or operated by the City of Charleston.

Section 10. 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 11. This Ordinance shall take effect upon ratification and shall expire on May 14, 2021 unless terminated or replaced by the issuance of another temporary emergency or permanent ordinance on the same matter prior to the expiration date.

Ratified in City Council this ____ day of _____ in the Year of Our Lord, 2021, and in the ____th Year of the Independence of the United States of America.

By: _____
John J. Tecklenburg
Mayor, City of Charleston

ATTEST: _____
Jennifer Cook
Clerk of Council