

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_\_-21HR

AN EMERGENCY ORDINANCE REQUIRING THE WEARING OF FACE MASKS TO HELP ALLEVIATE THE SPREAD OF COVID 19, SPECIFICALLY THE RECENT SURGE IN THE DELTA VARIANT.

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE COUNTY COUNCIL FOR RICHLAND COUNTY:

SECTION I.

**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**, the COVID-19 pandemic remains an international, national, statewide, and local threat; and

**WHEREAS**, Richland County is still under a “State of Disaster Declaration” enacted on March 17, 2020, declaring COVID-19 an imminent threat to the citizens of the County; and

**WHEREAS**, South Carolina Code of Laws Annotated Section 4-9-25 provides that:

All counties of the State, in addition to the powers conferred to their specific form of government, have authority to enact regulations, resolutions, and ordinances, not inconsistent with the Constitution and general law of this State, including the exercise of these powers in relation to health and order in counties or respecting any subject as appears to them necessary and proper for the security, general welfare, and convenience of counties or for preserving health, peace, order, and good government in them. The powers of a county must be liberally construed in favor of the county and the specific mention of particular powers may not be construed as limiting in any manner the general powers of

counties.

**WHEREAS**, South Carolina Code of Laws Annotated Section 4-9-130 provides that:

To 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**, Richland County Code of Ordinances; Chapter 2, Administration, Article II, County Council, Division 2, Ordinances, Section 2-31 provides:

(a) An emergency ordinance may be enacted only to meet public emergencies affecting life, health, safety, or the property of the people. Such an ordinance may not levy taxes, grant, renew or extend a franchise nor may it impose or change a service rate;

(b) Each emergency ordinance shall contain a declaration that an emergency exists, defining the emergency, and shall be entitled an "Emergency Ordinance";

(c) Emergency ordinances require no readings or prior publications before adoption by county council;

(d) Emergency ordinances require a two-thirds (2/3) affirmative vote of members present for adoption;

(e) An emergency ordinance is effective immediately on the date of adoption and shall expire automatically on the sixty-first day following the date of enactment; and.

(f) The clerk of council shall be responsible for indexing and providing for compilation of the emergency ordinance adopted and shall, with the county attorney's assistance, cause a copy of the emergency ordinance to be filed in the office of the clerk of court;

**WHEREAS**, as of Tuesday, August 31, 2021, there were 5,152 cumulative cases reported throughout the State of South Carolina bringing the state's total cumulative cases to 746,157 since the beginning of the pandemic; and,

**WHEREAS**, as of Tuesday, August 31, 2021 there were 307 cumulative cases in Richland County, with 58,850 cumulative cases since the beginning of the pandemic, and 414

cumulative cases in Lexington County, with 45,150 cumulative cases since the beginning of the pandemic.

**WHEREAS**, as of Tuesday, August 31, 2021 there here have been 10,742 cumulative deaths statewide, 637 cumulative deaths in Richland County and 558 deaths in Lexington County; and,

**WHEREAS**, the number of cases is again growing rapidly and if COVID-19 continues to spread in the County, the number of persons relying on medical, pharmaceutical, and general cleaning supplies will increase, the private and public sector work force will be negatively impacted by absenteeism, and the demand for medical facilities may exceed locally available resources; 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**, taking measures to control outbreaks minimizes the risk to the public, maintains the health and safety of the County's residents, and limits the spread of infection in our communities 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 County Council finds it necessary to take decisive action in order to protect, preserve, and promote the general health, safety, and welfare of the County by working to slow the spread of the coronavirus and the DELTA variant; and

**WHEREAS**, in light of the foregoing, County Council deems it proper and necessary to adopt this emergency Ordinance;

**NOW, THEREFORE**, by virtue of the authority vested in the governing body of Richland County pursuant to Home Rule, S.C.Code Ann. Sections 4-9-25 and 4-9-130, and in accordance with the requirements of S.C.Code Ann. Section 4-9-130 and Richland County Code of Ordinances, Chapter 2, Administration, Article II, County Council, Division 2, Ordinances, Section 2-31, and in light of the foregoing, the governing body of Richland County declares that an emergency exists with respect to the presence of and the spread of the Coronavirus (COVID-19), and pursuant to the above authorities, and incorporating the measures, guidance and recommendations set forth in the prefatory clauses hereinabove, adopts this EMERGENCY ORDINANCE, as follows:

## ARTICLE 1. General Mask Mandate

1. All persons entering a commercial establishment in the unincorporated Richland County must wear a face covering, which covers the mouth and nose, while inside the establishment. **A face covering must also be worn in situations where distances between people change frequently such as a busy sidewalk, waiting area, or popular outdoor area where it is impractical or impossible to maintain six feet of distance at all times.** This paragraph does not apply to religious establishments. However, the use of face coverings is recommended during religious activities as well.
2. All restaurants, retail stores, salons, grocery stores, and pharmacies in the County must require their employees to wear a face covering, which covers the mouth and nose, at all times while having face to face interaction with the public.
3. 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.
4. Face coverings are not required in the following circumstances:
  - a. In personal vehicles;
  - b. When a person is alone in enclosed spaces; during outdoor physical activity, provided the active person maintains a minimum of six (6) feet from other people at all times;
  - c. When a person is alone or only with other household members;
  - d. While drinking, eating or smoking;
  - e. When wearing a face covering causes or aggravates a health condition.
  - f. When wearing a face covering would prevent the receipt of personal services.
  - g. When a person is 10 years of age or younger.
5. A person who fails to comply with Paragraph 1 of this Ordinance shall be guilty of a civil infraction, punishable by a fine of not more than **\$25.00**. A person who fails to comply with Paragraph 2 of this Ordinance shall be guilty of a civil infraction, punishable by a fine of not more than **\$100.00**.
6. 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 paragraph, 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 County Code, result in the suspension or revocation of any occupancy permit or business license issued to a 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 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 the

business into voluntary compliance with the terms of this Ordinance prior to the issuance of any citation. For the purposes of Paragraph 2 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.

## ARTICLE 2. Mask Requirement as it Pertains to Schools and Daycares

A. This Article pertains to schools subject to Proviso 1.108 of the 2021-2022 Appropriations Act and private schools and daycares, all including faculty, staff, and children over the age of two (2), and visitors, in all buildings at public and private schools or daycares, to slow the spread of the novel Coronavirus and the disease COVID-19 within unincorporated Richland County as follows:

1. Face coverings which cover the nose and mouth shall be required in all indoor facilities on school or daycare grounds. This paragraph does not apply to religious establishments, however, the use of face coverings is recommended at all establishments educating and caring for children.
2. Any person 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 imposition.
3. Enforcement of this Ordinance will be by Richland County Fire Marshalls, who will periodically visit affected establishments. No school or school district staff is required by this Ordinance to help with enforcement. Enforcement is solely the responsibility of the Fire Marshalls. Every effort shall be made to bring the occupants of a school or business into voluntary compliance with the terms of this Ordinance prior to the issuance of any citation, including by means of an initial voluntary informational program held, without charge, by a Fire Marshall, for establishments and facilities subject to this Ordinance.
4. No school district or public school within the unincorporated Richland County shall create, announce, or enforce any policy requiring face masks be worn by students and/or employees relating to this Ordinance in any way.
5. No public school district or school within the unincorporated Richland County shall expend any funds from the South Carolina 2021-2022 Budget Appropriations Act for any action, communication, or other matter relating to this Ordinance.
6. No public school employee shall use any paid work time or work equipment to report any need for enforcement.

7. No school resource officer employed by the Richland County Sheriff's Department, but assigned to and funded in whole or in part by a public school district or school within the unincorporated Richland County, shall announce or enforce this Ordinance at any school facilities.

8. Richland County is solely responsible for announcing, requiring, and enforcing this ordinance.

9. Any person or covered entity that fails to comply with the requirements of this **Article** shall be guilty of a civil infraction, punishable by a fine of up to **\$25**, plus any applicable mandatory court costs and fees.

10. Each violation is considered to be a separate and distinct offense. Repeated violations by a person or private entity are hereby declared to be a public nuisance that may be abated via order, injunction, or any other legal means. Such means may include, subject to all applicable procedural protections provided by law, suspension and/or revocation of Richland County permits and/or licenses.

11. Parents or guardians of children, where the children knowingly and deliberately refuse to comply with the Ordinance, may be warned and or cited with the civil infraction fine.

B. Richland County will provide all necessary face coverings (masks) for all citizens at their request so no school funds are required to be expended to comply with this Ordinance, **as required in the recent S.C. Supreme Court decision in Alan Wilson, Attorney General, ex rel. State of South Carolina v. City of Columbia.**

**SECTION II. Severability.** If any section, subsection, or clause of this Emergency Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

**SECTION III. Conflicting Ordinances Repealed.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION IV. Effective Date.** This Emergency Ordinance shall be effective beginning at 6:00am on September 15, 2021. This Ordinance shall automatically expire on the 61st day after enactment of this Ordinance.

RICHLAND COUNTY, SOUTH CAROLINA

By: \_\_\_\_\_  
Paul Livingston, Chair  
Richland County Council

ATTEST THIS \_\_\_\_\_ DAY OF  
\_\_\_\_\_, 2021

\_\_\_\_\_  
Michelle Onley  
Deputy Clerk to Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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Approved As To LEGAL Form Only  
No Opinion Rendered As To Content