



ORDINANCE NO. 2021-13

AN EMERGENCY ORDINANCE EXTENDING EMERGENCY ORDINANCE NO. 2021-07 REQUIRING MASKS OR FACE COVERINGS IN ESTABLISHMENTS AND AT GATHERINGS

WHEREAS, SARS-CoV-2 (the Coronavirus) the virus that causes the disease COVID-19 and the surge of the DELTA Variant in our community and across the country is a serious public health concern especially those persons who are not vaccinated and for school age children, those who are twelve (12) and under who are currently unable to receive any of the vaccinations that have been approved; and,

WHEREAS, the Center for Disease Control (CDC) and the South Carolina Department of Health and Environmental Control (DHEC) have determined that the use of face coverings help control the spread of the Coronavirus; and

WHEREAS, the Orangeburg City Council is authorized and empowered, and has the duty to afford adequate protection for lives, safety, health, and welfare of its citizens, by Article VIII, Section 17 of the South Carolina Constitution and the Home Rule Act of 1975; and,

NOW, THEREFORE, be it ordained by the City Council of the City of Orangeburg that for the reasons stated above this ordinance is adopted by a two-thirds (2/3) majority vote of Council this 19th day of October 2021

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

- 1) "Establishment" means a Foodservice Establishment or Retail Establishment.
- 2) "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.
- 3) "Foodservice Establishment" means any establishment within the City that sells prepared food on a dine-in, dine-out, delivery, carry-out, or drive-through basis.
- 4) "Gathering" shall be defined as a planned or spontaneous indoor or outdoor event that involves or is reasonably expected to involve a large number of people physically present, congregating together, or otherwise simultaneously in attendance at a single indoor or outdoor location, public or private, and shall include, but not be limited to, the following: festivals, parades, concerts, theaters, stadiums, arenas, coliseums, auditoriums, grandstands, event venues, dance halls, concert halls, amphitheatres, gymnasiums, chambers, assemblies, nightclubs, performing arts centers, parks, racetracks, parties (including outside parties at private residences) or similarly situated or operated businesses, facilities, venues, services, activities, events, or mass gatherings, the occurrence or resulting impacts of which would pose a threat to public health or could strain the public health, planning, and response resources of the City. A Gathering shall not include individuals collectively performing or assisting with military, healthcare, public safety, or emergency response operations, as well as any other operations or services identified by the United States Cybersecurity and Infrastructure Security Agency in its March 28, 2020, Memorandum, or any future amendments or supplements thereto, as essential to continued critical infrastructure viability in connection with COVID-19. A Gathering shall not include the normal operations of public and private schools and higher education institutions or religious activities or services, including those conducted in churches, synagogues, or other houses of worship, gatherings at private residences attended by persons of the same household and/or the immediate family of the resident or residents.
- 5) "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 this Ordinance within the Establishment, such as an owner, manager, or supervisor. "Responsible Person" may also include an employee or other designee that 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.

6) "Retail Establishment" means any retail business, organization, establishment, or facility open to the public within 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.

Section 2. Use of Face Coverings.

- 1) all persons attending a Gathering are required to wear a Face Covering
- 2) all customers of an Establishment are required to wear Face Coverings while inside the enclosed area of any Retail Establishment or Foodservice Establishment;
- 3) all 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.

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;
- d) for children under the age of two (2) years old;
- e) in private, individual offices;
- f) when complying with directions of law enforcement officers;
- g) 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;
- h) 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.

Section 4. Individual Violations: Face Covering 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 fine 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 fine 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 City Code of Ordinances, result in the suspension or revocation of any occupancy permit or business license issued to business where the repeated violations occurred.

Section 7. Home Deliveries. Employees of an Establishment engaged in any form of delivery service are hereby ordered and shall wear a protective mask (or similar protective device) and sanitize his or her hands by the use of an approved hand sanitizer before presenting any item for delivery to any customer, home or business in the City of Orangeburg. Any employee violating this requirement shall be guilty of a civil infraction punishable by a fine of not more than fifty (\$50.00) dollars. Each violation shall constitute a separate infraction.

Section 8. Responsible Person Violations: Public Nuisance. In addition to the fines established by Sections 5 and 7 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 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 Establishments into voluntary compliance with the terms of this Ordinance prior to the commencement of any enforcement action.

Section 9. 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 to public wear Face Coverings.

Section 10. Gathering Civil Infraction. A violation of this Ordinance by the owner, landlord, or tenant, organizers, operators, owners, or hosts of, or other parties responsible for the Gathering or the private property on which the Gathering is located, after first being warned by a law enforcement officer to disperse, shall be guilty of a civil infraction punishable by a fine of one hundred (\$100.00) dollars. A violation of this ordinance by any person attending the Gathering after first being warned by a law enforcement officer to disperse and having failed to disperse after a reasonable period of time not to exceed two minutes shall be guilty of a civil infraction punishable by a fine of fifty (\$50.00) dollars. Observations by a law enforcement officer that any person or persons in attendance at a Gathering are not wearing Face Covering and not exercising "social distancing" by maintaining six (6) feet of separation shall be conclusive evidence that such congregation or gathering poses a threat to public health and is a violation of this Ordinance.

Section 11. Suspension of Contrary Local Provisions. During the Emergency Term (as defined in Section 12 below), any ordinance, resolution, policy, or bylaw of the City that conflicts with the provisions hereof shall be and is hereby suspended and superseded.

Section 12. Expiration of Ordinance; Extension of Emergency Term. As provided by S.C. Code § 5-7-250(d), this Ordinance shall be effective immediately and, unless enacted as a permanent ordinance, shall expire automatically as of the sixty-first day following the date of its enactment date of August 17, 2021 (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.

Section 13. 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.

PASSED BY the City Council of the City of Orangeburg, South Carolina, as an Emergency Ordinance on this 19th day of October 2021.



Michael C. Butts

Mayor

[Signature]

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Members of Council

Attest: *Ruida McDaniel*

City Clerk