

EMERGENCY ORDINANCE 2020-09

WHEREAS, Novel Coronavirus Disease 2019 (COVID-19) is a severe acute respiratory illness that can spread among humans through respiratory transmission and other potential methods, and presents symptoms similar to those of influenza; and,

WHEREAS, in December of 2019, a new and substantial outbreak of COVID-19 emerged in Wuhan, China, and has since spread rapidly to 117 countries and territories throughout the World, including the United States, and more specifically Broward County and 18 other counties in the State of Florida; and,

WHEREAS, on March 11, 2020, the World Health Organization (WHO) declared COVID-19 a pandemic; and,

WHEREAS, the Centers for Disease Control and Prevention (CDC) is predicting that it is likely that widespread transmission of COVID-19 will also occur in the United States; and,

WHEREAS, no vaccine or drug is currently available to cure or combat COVID-19; and,

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

WHEREAS, the City of Isle of Palms is threatened by COVID-19 because of the apparent ability of the virus to spread rapidly among humans, and COVID-19 thereby constitutes a clear and present threat to the health, safety, and welfare of the citizens and visitors of the City of Isle of Palms; and,

WHEREAS, the CDC has issued guidelines for "community mitigation strategies" to limit the spread of COVID-19, including recommendations for social distancing, which has proven to be an effective method for containing COVID-19; 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 Jimmy Carroll declared a local state of emergency in the City of Charleston; and,

WHEREAS, the City of Isle of Palms is working with other government agencies in an effort to prevent the spread of disease; and,

WHEREAS, on March 17, 2020, the Governor issued Executive Order 2020-10, ordering and directing that any and all restaurants or other food-service establishments to suspend on-premises or dine-in consumption; and,

WHEREAS, on March 20, 2020, City Council passed Ordinance 2020-01 limiting access to the island in order to prevent the spread of the virus to its residents and staff, with certain exceptions for residents and those performing essential business; and

WHEREAS, on March 21, 2020, the Governor issued Executive Order 2020-13, authorizing and directing law enforcement officers to prohibit or disburse 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; and,

WHEREAS, on March 25, 2020, City Council passed Ordinance 2020-02 suspending short term rentals through April 30, 2020; and

WHEREAS, on March 27, 2020, the Governor issued Executive Order 2020-14, directing that individuals who enter the State of South Carolina from an area with a substantial community spread of COVID-19 be required isolate or self-quarantine; and,

WHEREAS, on March 28, 2020, the Governor issued Executive Order 2020-15, declaring a separate and distinct state of emergency “due to the evolving nature and scope of the public health threat or other risks posed by COVID-19 and the actual, ongoing, and anticipated impacts associated with the same” and extending certain previous Executive Orders for the duration of the state of emergency; and,

WHEREAS, on March 30, 2020, the Governor issued Executive Order 2020-16, closing any and all public beach access points and public piers, docks, wharfs, boat ramps, and boat landings; and,

WHEREAS, on March 31, 2020, the Governor issued Executive Order 2020-17, closing or restricting access to certain non-essential businesses, venues, facilities, services, and activities; and,

WHEREAS, on April 3, 2020, the Governor issued Executive Order 2020-18 closing additional non-essential businesses; and,

WHEREAS, on April 3, 2020, the Governor issued Executive Order 2020-19 prohibiting short-term rentals, vacation rentals, or other lodging accommodations or operations from any individual residing in or travelling from any country, state, municipality or other geographic area subject to or identified in a CDC travel advisory with extensive community transmission of COVID-19; and,

WHEREAS, on April 6, 2020, the Governor, recognizing that public health officials had reported over 2,000 cases of COVID-19 in South Carolina, issued a Work or Home Executive Order (2020-21) which limited individuals from moving outside their homes except to engage in

Essential Businesses; Essential Activities, and Critical Infrastructure Operations as defined in the Order; and,

WHEREAS, on April 12, 2020, the Governor issued Executive Order 2020-23, recognizing that public health officials had reported over 3,319 confirmed cases of COVID-19 throughout South Carolina, and stating that “the extraordinary circumstances and conditions that necessitated” the Governor’s “prior emergency declarations have not subsided and have, in fact, evolved and expanded to present different and additional risks and dangers,” and explaining that the State “has transitioned from the investigation, reporting, and initiation phases of the COVID-19 pandemic to the acceleration phase”; and,

WHEREAS, in Executive Order 2020-23, the Governor declared a separate and distinct state of emergency based on a determination “that the accelerated spread of COVID-19 throughout the State poses an actual, ongoing, and evolving public health threat to the State of South Carolina, which now represents a new and distinct emergency and requires additional proactive action by the [State] and the implementation and enforcement of further extraordinary measures to slow the spread of COVID-19, minimize the strain on healthcare providers, and otherwise respond to and mitigate the expanding public health threat imposed by [the] emergency”; and,

WHEREAS, on April 16, 2020, the Governor issued Executive Order 2020-25, determining that “the ongoing, evolving, and accelerating public health threat imposed by COVID-19 requires additional proactive action by the [State] and the implementation, extension, or modification of additional extraordinary measures to cope with the existing or anticipated situation, to include mitigating the significant economic and other impacts and burdens on individuals, families and businesses,” while generally reopening public boat ramps or boat landings, as well as adjacent or associated public parking lots, for the purpose of launching and retrieving boats; and,

WHEREAS, on April 16, 2020, President Donald Trump issued guidelines entitled “Opening Up America Again,” describing criteria that state and local officials should satisfy before proceeding to a phased opening of the economy; and,

WHEREAS, on April 20, 2020, Governor McMaster issued Executive Order 2020-28, reopening retail businesses previously determined to be non-essential including department stores, furniture stores, luggage stores, flower shops, book, craft and music shops subject to certain emergency rules and restrictions, including but not limited to an emergency maximum occupancy rate, social distancing practices, and compliance with certain sanitation guidelines and further ordered any local ordinance that conflicts with the Order is superseded; and,

WHEREAS, on April 20, 2020, Governor McMaster issued Executive Order 2020-28, rescinded restrictions to all public beach access points, to include any adjacent or associated public parking lots or other public facilities, but while also authorizing ay municipality having jurisdiction

and control over any such public beach access points to close in whole or in part, or otherwise restrict the use of any such public beach access points to close, in whole or in part, to include any adjacent or associated public parking lot or other public facilities if it determines such action is necessary to preserve or protect public health; and,

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WHEREAS, on April 21, 2020, City Council passed Ordinance 2020-03 further detailing restrictions on beach access and use to residents and in conformance with CDC guidelines; and

WHEREAS, on May 3, 2020, Governor McMaster issued Executive Order 2020-31, modifying the stay-at-home order further by authorizing restaurants to provide outdoor customer dining services; and,

WHEREAS, on May 8, 2020, Governor McMaster issued Executive Order 2020-34, modifying the stay-at-home order further by authorizing restaurants to provide limited indoor, on-premises customer dining services to resume; and,

WHEREAS, on May 15, 2020, Governor McMaster issued Executive Order 2020-36, modifying the stay-at-home order further by authorizing close-contact service providers and specific recreational and athletic facilities and activities to resume; and,

WHEREAS, on May 21, 2020, Governor McMaster issued Executive Order 2020-37, modifying the stay-at-home order further by authorizing entertainment venues and facilities and additional facilities and recreational and athletic facilities and activities to resume; and,

WHEREAS, as of June 19, 2020, despite these gradual steps, the total number of cases of persons infected with COVID-19 in South Carolina has now grown to 22,631 with 621 deaths; including 1,554 confirmed cases in Charleston County and 9 confirmed cases on the Isle of Palms; and,

WHEREAS, as of June 19, 2020, the State of South Carolina has not seen a two-week downward trajectory of documented cases; and,

WHEREAS, the significant reopening of its economic, cultural and civic life, bringing more people into contact with each other, the State of South Carolina and Charleston County has brought with it a sizable increase in the number of positive cases reported daily; -with positive result rates as high as fourteen-percent (14%); and,

WHEREAS, in order to limit the probability of continued spread of COVID-19 to its residents and visitors, it is prudent to take more stringent measures; and,

WHEREAS, the CDC recommends wearing cloth face coverings in public settings where other social distancing measures are difficult to maintain in order to limit the spread of COVID-19; and

WHEREAS, in order to protect residents and visitors of the Isle of Palms while further advancing economic recovery, all must adhere to the recommendations provided by CDC on social distancing and wearing face coverings; and

WHEREAS, the use of face coverings and social distancing are important public health approaches to slow the transmission of COVID-19; and

WHEREAS, during a public health crisis, protecting the health and safety of Isle of Palms' residents and visitors is among the most important functions of City government.

WHEREAS, the City of Isle of Palms will continue to monitor on a daily basis the number of new cases and deaths and other circumstances related to COVID-19 in the City, including the impact of the coronavirus on our vulnerable and minority populations; and,

WHEREAS, in the upcoming weeks, as the City monitors this situation and the evolving medical and scientific information, we are prepared to take additional restrictive measures to limit any increase in the outbreak of COVID-19 on the island; and,

WHEREAS, Section 5-7-250 of the South Carolina Code of Laws empowers Council to enact emergency ordinances affecting life, health, or safety; and

WHEREAS, the City of Isle of Palms has experienced an unprecedented influx of beachgoers and visitors, creating multiple public safety issues for the City's police department and homeowners;

WHEREAS, in light of the foregoing, the City of Isle of Palms deems it proper and necessary to amend Emergency Ordinance 2020-08 in order to, among other things: extend the state of emergency and require the use of face coverings in public settings where social distancing measures are difficult to maintain and amend City Ordinance 8-2-45 (p) to allow City officers to enforce parking restrictions; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Isle of Palms, in Council assembled, that:

1. The City of Isle of Palms temporarily suspends the normal operating procedures of City Council meetings and hereby allows for the Mayor and Councilmembers to remotely participate in voting and operational procedures by telephone or other means of electronic communication provided that the provisions of the South Carolina Freedom of Information Act are complied with.
2. Local businesses on the island are authorized to purchase, use and distribute containers that do not comply with the City's plastic ban during this state of emergency.

3. All deadlines imposed by City Ordinance, applicable to the municipality or applicant, shall be suspended until July 15, 2020.
4. The City Administrator is authorized to develop and enact a plan in order to ensure continuity in the delivery of government services in light of the COVID-19 outbreak.
5. The City Administrator is authorized to cancel and revoke any special events permits issued prior to the date of this ordinance for events taking place until _____, 2020.
6. Any person on the beach will be required to maintain social distancing.
7. Starting May 12, 2020, all Short-Term Rentals on the island will be subject to the Safety Standards and Guidelines provided by the City's taskforce and attached hereto as **Exhibit A**. The requirements of these Safety Standards shall expire Upon the expiration of the State of Emergency.

8. Face Coverings Required

- a. ~~a.~~ Every person working, living, visiting, or doing business in Isle of Palms is required to wear a Face Covering consistent with the current CDC guidelines while in any public place where social distancing cannot be maintained.
- b. ~~b.~~ Medical and surgical face masks, such as "N95" masks or similar medical or surgical masks should be reserved for health care personnel and other first responders with the greatest need for such personal protective equipment. Persons are encouraged to review and comply with the CDC and SCDHEC guidelines on personal protective equipment, including with the respect to the use of a medical or surgical face mask, such as "N95" mask or similar medical or surgical mask.
- c. All businesses are strongly encouraged to follow CDC guidelines or industry standards (if any) on face coverings and social distancing, unless the wearing of the patron's face mask or covering would impede the patron's service, in which case only the service provider must wear a face mask or covering.
- d. Any person in violation of this provision shall be subject to a written and/or verbal warning; a civil penalty up to \$100 for first violation; and a civil penalty up to \$500 for any additional violation.
- e. Any person aggrieved by a decision may appeal the decision to the City Council by written request stating the reasons filed with the City Administrator within ten (10) days after the payment under protest. An appeal or a hearing on revocation shall be held by the City Council within thirty (30) days after receipt of a request for appeal or service of notice of suspension at a regular or special meeting of which the applicant or licensee has been given written notice, unless continued by agreement. City Council shall by majority vote of members present render a written decision based on findings of fact and application of the standards herein which shall be served upon all parties or their representatives and shall be final unless appealed to a court of competent jurisdiction within ten (10) days after service.

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Exceptions:

- a. Persons under the age of two years old; or
- b. Persons for whom a face covering would cause impairment due to an existing health condition or disability; or
- c. Persons working in a profession where use of a face covering will impede the ability to perform the duties of the profession; or
- d. Persons exercising while observing social distancing in accordance with the CDC guidelines.

9. In order to allow ease of enforcement for its Officers, the City desires to amend Ordinances Sec. 8-2-2 by adding “(v) while within designated beach parking zones, no closer than four feet (4’) to the pavement or farther than fourteen feet (14’) from the pavement, except as otherwise posted beach parking” and Sec. 8-2-45(p) to read: “closer than four feet (4’) to the pavement or farther than fourteen feet (14’) from the pavement, except as otherwise posted”. Any violation will be subject to penalties described in Ordinance Sec. 8-2-14.

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~~9. Any violation of any rule or regulation issued and set forth herein shall be punishable as provided in Title 9, Chapter 2, Section 3: Disorderly Conduct of the Code of Ordinances of the City of Isle of Palms, or b) any other penalties provided by State law, including penalties granted pursuant to Executive Orders issued by the South Carolina Governor. In addition, the Governor has authorized cities to seek an injunction, mandamus, or other appropriate legal action in the courts of the State.~~

Unless stated otherwise, the provisions of this Emergency Ordinance shall become effective immediately.

PASSED AND APPROVED BY THE CITY COUNCIL FOR THE CITY OF ISLE OF PALMS, ON THE ___TH DAY OF JUNE, 2020.

Jimmy Carroll, Mayor