

EMERGENCY ORDINANCE 2021-02

WHEREAS, the 2019 Novel Coronavirus (“COVID-19”) is a respiratory disease that can result in serious illness or death 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;

WHEREAS, the World Health Organization declared COVID-19 a Public Health Emergency of International Concern on January 30, 2020;

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

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;

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;

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;

WHEREAS, on March 16, 2020, the Mayor of Isle of Palms issued a Proclamation declaring a State of Emergency for the City of Isle of Palms;

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

WHEREAS, the City has determined that it is imperative to reduce social transmission in all areas of the City, including the beach;

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); 2020-48 (July 26); 2020-56 (August 25); 2020-62 (September 24); 2020-67 (October 24); 2020-72 (November 23); 2020-75 (December 8); 2020-77 (December 23); 2021-03 (January 7); 2021-07 (January 22); 2021-08 (February 6)

WHEREAS, the City of Isle of Palms Council adopted Emergency Ordinance 2020-10 on June 26, 2020 requiring the use of face coverings in certain circumstances on the Island effective July 1, 2020 and was subsequently extended by Emergency Ordinance 2020-13 and by Emergency Ordinance 2020-14 and by Emergency Ordinance 2021-01;

WHEREAS, the State is experiencing a significant number of identified new COVID-19 cases, and as of February 17, 2021, the South Carolina Department of Health and Environmental Control (“DHEC”) is reporting that there have been 429,494 confirmed COVID-19 cases and 7,248 confirmed COVID-19 deaths in the State;

WHEREAS, if COVID-19 cases continue to increase in the State and in the City of Isle of Palms, 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;

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, S.C. Code § 5-7-250(d) provides that “[t]o meet public emergencies affecting life, health, safety or the property of the people, council may adopt emergency ordinances ... 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;”

WHEREAS, Sections 5-7-30 (the “Home Rule Statute”) and 5-7-250 of the South Carolina Code of Laws, as well as the Governor’s Orders, all empower Council to enact emergency ordinances affecting life, health, or safety; and

WHEREAS, in light of the foregoing, the City of Isle of Palms deems it proper and necessary during this state of emergency to allow City Council and any appointed Board or Commission to meet by telephone or other means of electronic communication provided compliance with the provisions of the South Carolina Freedom of Information Act; 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 ordained by the City of Isle of Palms Council as follows:

1. Council and the Mayor formally declare a State of Emergency due to a resurgence in known cases of COVID-19 within the City and surrounding areas.
2. 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.
3. The City Administrator is authorized to develop and enact any additional plans in order to ensure continuity in the delivery of government services in light of the COVID-19 outbreak.
4. 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 through the duration of this Emergency Ordinance.
5. All residents and non-residents shall comply with Social Distancing mandates of the Governor’s Executive Order.
6. Emergency Ordinance 2020-10, an ordinance requiring individuals to wear face coverings in retail and foodservice establishments is extended and shall remain in place through the duration of this Emergency Ordinance.
7. All Short-Term Rentals on the island will be subject to the Safety Standards and Guidelines provided by the City's taskforce. The requirements of these Safety Standards shall expire Upon the expiration of the State of Emergency.

8. During the duration of this emergency order, businesses, including but not limited to event spaces, restaurants and bars, shall not allow live entertainment, including but not limited to bands, DJ's, karaoke, bingo, trivia, contests, or other crowd drawing activity after 11:00pm. This is recognized as a temporary alteration of the City's existing noise ordinance, Section 9-2-5.
9. Restaurants and businesses must comply with Governor McMaster's Emergency Orders and must comply with and adhere to applicable sanitation guidelines promulgated by the CDC, DHEC, or any other state or federal public health officials, as well as relevant industry guidance.
10. Restaurants are authorized to offer outside dining on site in addition to take out orders as long as they are following the guidelines developed by the South Carolina Restaurant & Lodging Association.

Section 2. Penalties. 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, including Section 7-1-15 allowing for suspension or revocation of business license and as a violation of S.C. Code Section 16-7-10 (Illegal acts during state of emergency, or c) 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. In addition, any violation of any rule or regulation issued and set forth herein as it relates to parking shall be punishable pursuant to Title 8, Chapter 2: Stopping, Standing and Parking of Vehicles.

Section 3. Suspension of Contrary Local Provisions. During the Emergency Term (as defined in Section 12 below), any ordinance, resolution, policy, or bylaw of the City of Isle of Palms that conflicts with the provisions hereof shall be and is hereby suspended and superseded.

Section 4. Expiration of Ordinance; Extension of Emergency Term. As provided by S.C. Code § 5-7-250(d), 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.

Section 5. 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 6. Effective Date and Time. This emergency Ordinance shall take effect automatically upon the expiration of Emergency Ordinance 2021-01.

PASSED AND APPROVED BY THE CITY COUNCIL FOR THE CITY OF ISLE OF PALMS, ON THE 23rd DAY OF FEBRUARY, 2021.


Jimmy Carroll, Mayor

