

EMERGENCY ORDINANCE 2020-11

**PROHIBITING THE USE OF BEACH CHAIRS, SUN COVERINGS AND COOLERS ON THE BEACH, LIVE ENTERTAINMENT AFTER 9:00 P.M. AND LIMITING OCCUPANCY IN BARS AND RESTAURANTS TO FIFTY (50%) PERCENT.**

**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**, 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**, 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);

**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;

**WHEREAS**, the State is experiencing a dramatic increase in the number of identified new COVID-19 cases, and as of July 14, 2020, the South Carolina Department of Health and Environmental Control (“DHEC”) is reporting that there have been 60,220 confirmed COVID-19 cases and 984 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**, 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 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.
3. 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 August \_\_, 2020.
4. 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, and amplified music or other crowd drawing activity after 9:00pm. This is recognized as a temporary alteration of the City’s existing noise ordinance, Section 9-2-5.
5. During the duration of this emergency order, businesses, including but not limited to event spaces, restaurants and bars shall operate at fifty-percent (50%) occupancy as determined by the Fire Marshall. Council empowers the City Fire Marshall to inspect and issue a citation pursuant to the City’s Code of Ordinances, the Emergency Ordinance or any State Executive Order. The business shall post the maximum occupancy as calculated herein on the public entrances of the business and shall have at least one employee on site at all times the business is open who is responsible for ensuring that that number of customers on the premises does not exceed the maximum occupancy and that customers who are waiting outside the business are socially distancing.
6. While the residents and non-residents shall have access to the beach, all beach chairs, shade devices and coolers are prohibited until further notice. Recommended beach activities include running, walking, dog walking, biking, swimming, surfing and other recreational

activities consistent with social distancing. Sitting in chairs, loitering and congregations of more than three (3) people unless members of the same family who live in the same household are prohibited. Beach goers shall remain six (6) feet apart from each other. People with disabilities who can provide a handicap decal, property owners and those with verifiable property rights, are exempted except from social distancing requirements.

**Section 2. Violations.** 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..

**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, provided that the total duration of the Emergency Term shall not exceed six months without enacting an ordinance in the ordinary course.

**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 at \_\_\_\_\_ on July \_\_, 2020.

PASSED AND APPROVED BY THE CITY COUNCIL FOR THE CITY OF ISLE OF PALMS, ON THE \_\_\_\_\_ DAY OF JULY, 2020.

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Jimmy Carroll, Mayor