



**EMERGENCY ORDINANCE
TO DECREASE THE RISK OF EXPOSURE TO COVID-19
IN RESTAURANTS**

Section 1. Findings. City Council does hereby make the following findings:

WHEREAS, in December 2019, an outbreak respiratory illness due to a novel coronavirus (COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, across the world, including the United States; and,

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

WHEREAS, on January 23, 2020, the Center for Disease Control (“CDC”) activated its Emergency Response System to provide ongoing support for the response to COVID-19; and,

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency to assist with combating the coronavirus, 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 John J. Tecklenburg declared a local state of emergency in the City of Charleston; and,

WHEREAS, on March 16, 2020, City Council passed a temporary emergency ordinance (Ordinance No. 2020-038) to prohibit consumer price gouging on all commodities in the City of Charleston with limited exceptions; and,

WHEREAS, on March 16, 2020, City Council passed a temporary emergency ordinance (Ordinance No. 2020-040) suspending the requirements of 2-23(f) requiring the physical presence of Councilmembers at City Council meetings and committee meetings to permit participation by video conferencing or other virtual means to slow the spread of covid-19; 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 a temporary emergency ordinance (Ordinance No. 2020-041) to temporarily suspend the accrual of the City’s business license penalties, to suspend enforcement of the City’s plastic bag ban, and to suspend the City’s chauffeur’s license requirements; 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 24, 2020, City Council passed a temporary emergency ordinance, “Stay at Home Ordinance” (Ordinance No. 2020-042) which required individuals to stay in their homes and not travel or congregate in the streets of Charleston except for purposes of working at or conducting business with an essential business or engaging in individual outdoor recreational activities; 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 1, 2020, City Council passed a Stay at Home Ordinance (Ordinance No. 2020-048) which includes provisions contained in Governor McMaster’s executive orders regarding dispersing of crowds (2020-13); quarantining of individuals from New York, New Jersey, and Connecticut (2020-14); closing of beaches and boat landings (2020-16) and closing of non-essential businesses (2020-17); and,

WHEREAS, on April 3, 2020, Governor Henry McMaster issued an Executive Order (2020-18) closing additional non-essential businesses; and,

WHEREAS, on April 6, 2020, Governor Henry McMaster, 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 6, 2020, City Council passed a temporary emergency ordinance (Ordinance No. 2020-042) to provide for temporary procedures for public hearings; 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 an 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 22, 2020, City Council passed a temporary emergency ordinance (Ordinance No. 2020-052) to decrease the potential likelihood of exposure to COVID-19 in retail establishments opened by Governor McMaster’s Executive Order 2020-28; and,

WHEREAS, on April 30, 2020, City Council passed a temporary emergency ordinance (Ordinance No. 2020 - 056) to amend Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) by amending the Design Review District Section 54-268.c to allow affordable housing developments to be approved by the Administrative Officer; and,

WHEREAS, on May 1, 2020, by Executive Order No. 2020-30 the Governor rescinded Executive Order Nos. 2020-14 and 2020-19 which had imposed mandatory self-quarantine and lodging and travel restrictions for individuals entering South Carolina from high-risk areas; and,

WHEREAS, on May 3, 2020, by Executive Order No. 2020-31, the Governor modified the Home or Work Order to no longer require but encourage citizens and visitors to limit their movements outside of their residence for purposes of engaging in Essential Business, Essential Activities, or Critical Infrastructure; and further, to authorize outdoor dining services; and,

WHEREAS, on May 3, 2020, the total number of cases of persons infected with COVID-19 in South Carolina is 6,626, with 275 deaths; including 457 cases in Charleston County with 7 deaths and 186 cases in Berkeley County with 11 deaths; and,

WHEREAS, University of Harvard health experts have stated that they cannot rule out the possibility of the COVID-19 infection being transmitted through food by an infected person who has not thoroughly washed their hands; and,

WHEREAS, owners and operators of retail businesses engaged in serving food and beverage who open their establishments to the public or for private events during the state of emergency in the City of Charleston shall operate in a safe manner and reduce the potential risk of exposure to the spread of COVID-19 as set forth in this Ordinance and in accordance with CDC guidance for Restaurants and Bars and the South Carolina Restaurant and Lodging Association.

Section 2. Outdoor Dining Areas.

Upon opening, all businesses offering outdoor dining in the City of Charleston shall follow the following procedures to be modified by the Mayor for the health, safety and welfare of the citizens of the City, customers, employers and employees:

1. Outdoor dining areas, to include open air patio, balcony, rooftop, parking lots and sidewalks, must operate in accordance with features previously approved by Fire Marshal

for occupancy, subject to subsection 3.xi. below, and if applicable, City of Charleston sidewalk dining permits.

2. Within seven (7) days of providing outdoor customer dining services, owners/operators must provide safe cooking and serving food handling training to employees and document the training; documentation of the training will be provided to the City upon request.

3. Additional procedures on occupancy, sanitation, and social distancing:

i. Space tables a minimum of 8 feet from each other (measured from all edges of the table).

ii. Limit table groups to 8 individuals.

iii. Clean and sanitize reusable menus and dishes. If using throwaway menus, single-service condiments, and disposable utensils and dishes, discard after each customer's use.

iv. Table service or pick-up counter service shall only be provided. Buffets, salad bars and drink stations are prohibited.

v. Tables, chairs, and seats must be cleaned/sanitized after every customer.

vi. Wash, rinse, and sanitize food contact surfaces, food preparation surfaces, and beverage equipment after use.

vii. Hand sanitizer shall be readily available to customers.

viii. Enforce hand washing, covering coughs and sneezes and use of a cloth face covering by employees when near other employees and customers; customers should be encouraged to wear face covering while waiting to be seated.

ix. Eliminate gatherings in the building when entering or exiting outdoor seating area.

x. Maintain a strict social/physical distancing process to ensure guests stay separate when waiting to be seated. This process can include floor marking, outdoor distancing, waiting in cars, and exiting from the facility separate from the entrance. Customers are allowed to use restrooms inside the premises so long as they maintain strict social/physical distancing.

- xi. Seating in outdoor dining area shall be limited to 50% of the occupancy previously approved by the Fire Marshal.
 - xii. Post signage at each public entrance to inform employees, customers, and vendors that they should avoid entering the premises if they have a cough, fever or feel generally unwell and to avoid unnecessary physical contact.
4. Open Areas and temporary tents utilized by existing, permitted restaurants, must have all sides of the tent open. In addition to the requirements of subsections 1, 2 and 3 above, the following conditions are required:
- i. Space tables a minimum of 8feet from each other (measured from all edges of the table).
 - ii Limit table groups to 8 individuals.
 - iii. State approved fire extinguisher within 75 feet of tent area.
 - iv. Minimum 7-foot 6-inch head room (ceiling height).

Section 3. Restaurants are encouraged to incorporate industry guidelines regarding outdoor dining services when reopening their businesses, such as those issued by the South Carolina Restaurant and Lodging Association, the National Restaurant Association’s Reopening Guidance, and the CDC Interim Guidelines for Restaurants and Bars.

Section 4. Owners/operators are responsible for ensuring that the procedures set forth in this Ordinance are followed or otherwise cease services. Businesses shall not be allowed to remain open unless operating in compliance with the requirements of Section 2, above.

Section 5. Notwithstanding the foregoing, businesses shall comply with Section 2 of Emergency Ordinance No. 2020-052, Emergency Ordinance on Decreasing the Risk of Exposure to Covid-19 in Retail Business. To the extent that provisions of this Ordinance and Ordinance No. 2020-052 conflict, the more restrictive provisions shall apply.

Section 6. The City of Charleston Fire Department, Office of the Fire Marshal, Police Department, Building Inspections Division, and their designees, and Livability Code Enforcement Officers are hereby authorized to inspect and determine whether businesses are in compliance with this Emergency Ordinance. For the duration of this Ordinance, it is unlawful for a person to willfully fail or refuse to comply with any lawful order or direction of these individuals or their designees issued pursuant to this Ordinance.

Section 7. Violation of any section of this Ordinance or any Subsection of this Ordinance shall be punishable with a fine of up to \$100.00 and/or thirty (30) days in jail.

Section 8. This Ordinance shall become effective upon enactment and shall expire sixty (60) days from the date of the State of Emergency declared on March 16, 2020 unless otherwise modified, amended, extended, or rescinded by a subsequent City Ordinance to protect the health, safety, and welfare of the City of Charleston.

Ratified in City Council this ____ day of _____ in the Year of Our Lord, 2020, and in the ____th Year of the Independence of the United States of America.

By: _____
John J. Tecklenburg
Mayor, City of Charleston

ATTEST: _____
Vanessa Turner Maybank
Clerk of Council