

**EMERGENCY ORDINANCE
AMENDING EMERGENCY ORDINANCE 2020 -100
BY DELETING LANGUAGE IN SECTION 6 REQUIRING
OCCUPANCY LIMITS FOR RESTAURANTS AND BARS
AND INCORPORATING RESTRICTIONS AND CONDITIONS
OF GOVERNOR'S EXECUTIVE ORDER NO. 2020-63 ON
RESTAURANT AND BAR OPERATIONS**

Section 1. Chapter 21, Section 111 of the Code of the City of Charleston is hereby amended by deleting the struck through text, which shall read as follows:

“Sec. 21-111. - Disguised persons; Halloween exceptions.

(a) No person over sixteen (16) years of age shall appear on any street, highway, alley, public park or other public place in the city in any disguise which conceals the identity of such person, without the permission of the chief of police.”

Section 2. **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, the local state of emergency has been extended several times and is set to expire on July 15, 2020; and,

WHEREAS, City Council has enacted a number of emergency ordinances in an effort to decrease the risk of exposure to COVID-19 in our city; and,

WHEREAS, both the State of South Carolina and the City of Charleston remain in a state of emergency due to the COVID-19 pandemic; and,

WHEREAS, the State and City's efforts to slow the spread of the virus, by way of limiting public gatherings and certain retail operations, contributed to the flattening of the curve; however, maintaining such efforts became unviable; and,

WHEREAS, since returning to more public interaction, the number of COVID-19 cases in the State and the city have dramatically increased; and,

WHEREAS, as of June 24, 2020, there were 26,572 confirmed cases throughout the State of South Carolina and 673 deaths, with 2,251 cases in Charleston County, with 20 deaths and 695 cases in Berkeley County, with 20 deaths; and,

WHEREAS, on June 25, 2020, in response to the dramatic spike in the number of COVID-19 cases in Charleston and Berkeley Counties, Council approved Emergency Ordinance 2020-84 requiring face coverings in certain circumstances, effective July 1, 2020; and,

WHEREAS, as of July 9, 2020, it was reported that there is no country in the world where confirmed coronavirus cases are growing as rapidly as they are in South Carolina; and,

WHEREAS, as of July 11, 2020, the number of cases continued to rise at an alarming pace, to the extent that there were at least 54,538 confirmed cases throughout the State of South Carolina and 905 deaths, with 7,553 cases in Charleston County, with 58 deaths and 2,205 cases in Berkeley County, with 25 deaths; and,

WHEREAS, on July 11, 2020, Governor Henry McMaster issued Executive Order No. 2020-45 prohibiting the sale or consumption of beer, wine, or alcoholic liquor on the licensed premises of all persons or businesses authorized to sell beer, wine or alcoholic liquor between the hours of 11:00 p.m. and 10:00 a.m. the following day; and,

WHEREAS, the Centers for Disease Control and Prevention ("CDC") and SCDHEC strongly advise, in addition to social distancing, the use of cloth face coverings to slow the spread of COVID-19; and,

WHEREAS, the medical and scientific evidence around COVID-19 is ever-evolving, and the CDC has stated that COVID-19 spreads mainly in large, in-person gatherings and crowds where it is difficult to be socially distancing, and from person to person through respiratory droplets produced when an infected person coughs, sneezes, talks, or raises their voice while shouting or singing; and,

WHEREAS, playing loud music in establishments requires customers in order to be heard are required to shout over the top of the music which sprays the virus much further than a normal toned conversation; and in addition, loud music draws crowds which makes it difficult for maintaining social distancing; and,

WHEREAS, taking measures to control outbreaks and to lessen the spread of the virus from person to person minimizes the risk to the public, maintains the health and safety of the City's residents, and limits the spread of infection in our community and within the healthcare delivery system; and,

WHEREAS, in order to protect, preserve, and promote the general health, safety and welfare and the peace and order of the community, the City has and will continue to take steps to try to protect the citizens, employers, and employees of the City from an increased risk of exposure to COVID-19; and,

WHEREAS, Council finds that it is in the best interest of the public peace, health, welfare, and safety, and to help preserve the lives of citizens of the City of Charleston, to require that masks, consisting of at least simple cloth face coverings, be worn by persons when interacting in public in the City of Charleston, ~~to limit the number of persons who can occupy bars and restaurants,~~ **to require restaurants and bars to adhere to certain conditions and restrictions**, and to prohibit in bars and restaurants the playing of amplified music after **11 pm** ~~9:00 pm~~ to decrease the spread of the virus.

Section 3. Face Covering or Mask Required in All Public Places.

The use of a face covering or mask is required by every person within the boundaries of the City of Charleston in all public places, including sidewalks, streets, and public rights of ways and as detailed below:

1. All persons entering any building open to the public in the City must wear a face covering while inside the building;
2. All restaurants, retail stores that include but are not limited to salons, barber shops, grocery stores, pharmacies, or other buildings open to the public in the City must require their employees to wear a face covering at all times while having face-to-face interaction with the public;
3. While interacting with people in outdoor spaces, including, but not limited to, curbside pickup, delivery, and service calls;

4. While providing or utilizing public or commercial transportation, including tours;
5. When walking in public; or
6. When participating in a permitted or allowable gathering.

Section 4. Exceptions to Face Covering or Mask in All Public Places.

While the City is requiring the use of face coverings or masks in public, the following shall be exempt from the provisions of this emergency ordinance:

1. Any person who is unable to safely wear a face covering due to age, an underlying health condition, or is unable to remove the face covering without the assistance of others;
2. Any person traveling in their personal vehicles;
3. When a person is alone or only with other household members in an enclosed space;
4. While participating in a sustained outdoor physical or sports activity, provided the active person maintains a minimum of six (6) feet from other people at all times;
5. While actively smoking, drinking, or eating;
6. Customers seated in a restaurant or at a bar so long as they maintain a minimum of six feet from other persons in the establishment;
7. In an outdoor or unenclosed area appurtenant to retail establishments or foodservice establishments in which social distancing of at least six feet is possible and observed;
8. For people whose religious beliefs prevent them from wearing a face covering;
9. For children under 10 years old, provided that adults accompanying children ages two through 10 shall use reasonable efforts to cause those children to wear face coverings while inside the enclosed area of any retail establishment or foodservice establishment;
10. In private, individual offices;
11. When complying with directions of law enforcement officers;
12. In settings where it is not feasible to wear a face covering, including when obtaining or rendering goods or services such as the receipt of dental services or while swimming; and,
13. Police officers, fire fighters and other first responders when not practical or engaged in a public safety matter of an emergency nature.

Section 5. **Violation and Penalties for Failing to Wear Face Covering or Mask.**

Any person found violating any provision of this Ordinance that requires the wearing of a face covering or mask in all public places, unless he or she is exempt as provided for in Section 4 above, shall be deemed guilty of an infraction and shall be subject to a fine of one hundred dollars (\$100.00) for the first offense; two hundred dollars (\$200.00) for the second offense; and five hundred dollars (\$500.00) for the third offense.

**Section 6. ~~Occupancy Limits for Bars and Restaurants—Indoors.~~
Restrictions and Conditions on Operations of Restaurants and Bars.**

~~During the duration of this emergency ordinance, bars and restaurants in the city of Charleston are required to limit the number of customers allowed to enter and simultaneously occupy the indoor premises so as not to exceed 50% of the occupancy limit as determined by the Fire Marshal or not to exceed one (1) person per 36 square feet, whichever is less. 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.~~

During the duration of this emergency ordinance, in accordance with Governor Henry McMaster’s Executive Order No. 2020-63, restaurants and bars operating in the city of Charleston are not required to limit their occupancy rate but shall adhere to the restrictions and conditions of operations included in Executive Order No. 2020-63 and set forth below:

1. **Restaurants that elect to provide indoor or outdoor customer dining services for on-premises or dine-in consumption, as authorized herein, shall take reasonable steps to incorporate, implement, comply with, and adhere to any applicable sanitation guidelines promulgated by the CDC, DHEC, or any other state or federal public health officials, as well as relevant industry guidelines, to limit exposure to, and prevent the spread of, COVID-19.**
2. **Restaurants shall require that all employees, customers, patrons, suppliers, vendors, and other visitors wear Face Coverings, as defined in Section 2(D) of this Order, except while actively engaged in eating or drinking, subject to any applicable exceptions set forth in Section 2(C) (1)-(10) of this Order.**
3. **Restaurants shall not permit the sale or consumption of beer, wine, or alcoholic liquor between the hours of 11:00 p.m. and 10:00 a.m. the following day in accordance with Section 5 of this Order.**
4. **Restaurants should space indoor and outdoor tables at least six (6) feet apart, to the extent possible, to ensure that customers and patrons are at least six (6) feet apart from any other party or group.**
5. **Restaurants should limit seating at each table to no more than eight (8) customers and patrons, exclusive of family units or members of the same household.**
6. **Restaurants should adopt and enforce a process to ensure that customers and**

patrons are able to maintain a minimum of six (6) feet of separation from other parties while waiting to be seated. If there is any indoor or outdoor waiting area, Restaurants should use tape or other markings to help customers and patrons identify and maintain a minimum of six (6) feet of separation from other parties.

7. Restaurants should not allow patrons and customers to stand or congregate in any bar area. Restaurants should remove bar stools or arrange them in a manner that will ensure that customers and patrons are able to maintain a minimum of six (6) feet of separation from the other parties.
8. Restaurants shall post signage at each public entrance informing customers, patrons, suppliers, vendors, and other visitors that entry is prohibited for individuals who are experiencing symptoms of COVID-19 or who have tested positive for COVID-19 within the preceding fourteen (14) days.
9. Restaurants shall conduct, prior to or at the beginning of each shift, an employee survey and screening process, which should include taking each employee's temperature before they begin their shift and inquiring about common symptoms of COVID-19.
10. Restaurants should immediately excuse and exclude any employees indicating symptoms of COVID-19 or who have tested positive for COVID-19 or have been in contact with someone who has tested positive for COVID-19 within the preceding fourteen (14) days.
11. Restaurants should actively encourage and require employees who are sick, who have symptoms of COVID-19, who have tested positive for COVID-19, or who have recently had close contact with a person who has tested positive for COVID-19 to stay at home, and should develop policies to encourage any such employees to stay at home without fear of reprisal or adverse employment action on this basis.
12. Restaurants should remove common-use condiments, such as salt, pepper, and ketchup, from tables. These items should be provided upon request and cleaned and sanitized between uses if single-use options are not available.
13. Restaurants should not place utensils on a table until after a customer or patron is seated and, if possible, should offer disposable single-use utensils.
14. Restaurants should utilize disposable paper menus if possible or sanitize menus after each use.
15. Restaurants should use approved sanitizing solutions to clean tables, chairs, and check presenters after each table turn or seating.
16. Restaurants shall provide a cleaning station or alcohol-based hand sanitizer at all entry points.
17. Restaurants shall discontinue self-service buffets or food stations to prevent customers and patrons from reusing service utensils to avoid potential physical contamination; however, employees may be permitted to dispense food via cafeteria-style buffet service.
18. Restaurants should minimize, modify, or discontinue services that allow customers and patrons to fill or refill their own beverage cups.
19. Restaurants shall sanitize doorknobs and other shared or frequently touched surfaces as much as possible between newly arriving parties with approved

sanitizing solutions.

20. **Restaurants should only use kiosks or touch screens for customers and patrons if they can be sanitized between uses and should encourage touchless payment operations like credit cards where no signature required.**

Section 7. **No Amplified Music in Bars and Restaurants
After 11 p.m.**

During the duration of this emergency ordinance, bars and restaurants shall not allow amplified music, including but not limited to bands, DJs, and karaoke music, after 11 p.m. This is recognized as a temporary alteration of the City's existing noise ordinance, Section 21-16, Code of the City of Charleston.

Section 8. **Violation and Penalties for Exceeding Occupancy Limits; Playing Amplified
Music After 11 p.m.**

1. With the exception of their own employees, businesses owners and operators shall not have responsibility for enforcing the requirements set forth in Section 3 of this Ordinance but shall post conspicuous signage at all entrances informing its patrons of the requirements of this Ordinance and may refuse service to customers who after having been provided a warning and copy of this Ordinance by the business, fail to comply with this Ordinance.
2. Business owners and operators are responsible for ensuring that Sections 6 and 7 of this Ordinance are followed or otherwise cease services. Pursuant to Section 45-3-30 of the South Carolina Code, the City may deem or revoke any license granted to conduct any such business when in the judgment of the City, the business is not complying with this Ordinance and is subject to the penalties set forth in Section 1-16 of the City Code.
3. It shall be deemed a public nuisance for a business to violate Sections 6 and/or 7 of this Ordinance on three (3) separate occasions within a three (3) day period of time and as such, the business shall be subject to a review by the City's Business License Official for suspension of its business license as provided for in Section 16 of the City's Business License Ordinance.

Section 9. **Enforcement.**

1. 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 persons are in compliance with the Ordinance. The City will work with the business community to develop marketing strategies, signage, and mask availability, and will work with businesses, local organizations and citizens to educate them on the requirements of the Ordinance as they come into compliance with it. For the duration of this Ordinance, it is unlawful for any person to willfully fail or refuse to

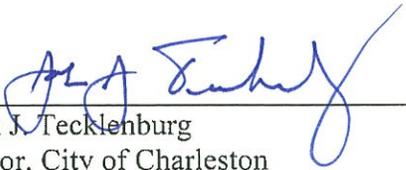
comply with any lawful order or direction of the individuals or designees issued pursuant to this Ordinance.

2. Pursuant to Gov. Henry McMaster's Executive Order No. 2020-45, officers of the Charleston Police Department are authorized to prohibit or disperse 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 pursuant to City of Charleston Ordinance No. 2020-70, social gatherings of 10 or more persons on public streets, sidewalks, parks and all other outdoor properties owned or operated by the City of Charleston is prohibited.

Section 10. 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 11. This Ordinance shall take effect on its adoption and shall be terminated by the issuance of another ordinance or shall automatically expire on the 61st day after its enactment, whichever date is earlier.

Ratified in City Council this 13th day of October in the Year of Our Lord, 2020, and in the 245th Year of the Independence of the United States of America.

By: 
John J. Tecklenburg
Mayor, City of Charleston

ATTEST: 
Jennifer Cook
Interim Clerk of Council