

EMERGENCY ORDINANCE No. 2020-7-1A

**CITY OF HARDEEVILLE, SOUTH CAROLINA
AN EMERGENCY ORDINANCE OF THE CITY OF HARDEEVILLE, SOUTH
CAROLINA, REQUIRING INDIVIDUALS TO WEAR FACE COVERINGS IN
CERTAIN CIRCUMSTANCES IN LIGHT OF THE COVID-19 PANDEMIC; AND
MATTERS RELATED THERETO; AND SEVERABILITY**

WHEREAS, it is well recognized that SARS-CoV-2 the virus that causes the disease COVID-19 presents a public health concern that requires extraordinary protective measures and vigilance; and

WHEREAS, on March 11, 2020, the World Health Organization declared a world-wide pandemic; and

WHEREAS, on March 13, 2020, the President of the United States declared a National Emergency for the United States and its territories in an effort to reduce the spread of the virus; and

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; and

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); and

WHEREAS, COVID-19 has spread across the state with the South Carolina Department of Health and Environmental Control (“SCDHEC”) confirming that localized person-to-person contact in South Carolina enables a significant risk of exposure, propagates the spread of COVID–19 infection and creates an extreme public health risk; and

WHEREAS, as of June 28, 2020, the total number of confirmed COVID-19 cases in the state of South Carolina was approximately 34,5462 and the number of confirmed deaths was 717; with the number of reported cases in Jasper County at 122, the number of estimated cases at 749, and the number of possible cases being 871; and

WHEREAS, the number of cases is growing rapidly, and if COVID–19 continues to spread in the City, the number of persons relying on medical, pharmaceutical, and general cleaning supplies will increase, the private and public sector work force will be negatively impacted by absenteeism, and the demand for medical facilities may exceed locally available resources; and

WHEREAS, it is vitally important that we all work together to decrease the widespread proliferation of COVID-19 among us all now rather than suffer the unfortunate and devastating consequences later; and

WHEREAS, the Centers for Disease Control and Prevention (“CDC”) and SCDHEC advise the use of cloth face coverings to slow the spread of COVID-19; and

WHEREAS, S.C. Code § 5-7-250(d) provides that “to 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;” and

WHEREAS, taking measures to control outbreaks minimizes the risk to the public and contributes to 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 is taking steps to try to protect the citizens and employees of the City from increased risk of exposure; and

WHEREAS, in light of the foregoing, Council deems it proper and necessary to adopt this emergency Ordinance in order to require (a) patrons of grocery stores and pharmacies to wear face coverings while inside the store in light of the fact these establishments sell essential goods such that individuals do not have a meaningful choice to decide not to shop there and (b) all employees of restaurants, bars, retail establishments, salons, grocery stores, and pharmacies to wear face coverings at any time there is face to face interaction with the public.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HARDEEVILLE, SOUTH CAROLINA, in accordance with the forgoing as follows:

Section 1. Definitions.

(a) “Face Covering” means a uniform piece of cloth, fabric, or other material that securely covers a person’s nose and mouth and remains affixed in place without the use of one’s hands. Face Coverings include, but are not limited to, bandanas, medical masks, cloth masks, scarves, and gaiters, provided that they are worn such that they securely cover the person’s nose and mouth.

(b) For the purposes of Section 3(b) of this Ordinance, “person” shall be defined as any individual associated with the business who has the control or authority and ability to enforce the requirements of the Ordinance within the business, such as an owner, manager or supervisor.

“Person” may also include an employee or other designee that is present at the business but does not have the title of manager, supervisor, etc., but has the authority and ability to ensure that the requirements of this Ordinance are met while the business is open to the public.

Section 2. Requirements for Face Coverings.

(a) All persons entering a grocery store or pharmacy in the City must wear a face covering while inside the establishment. For purposes of this Ordinance, the term grocery store shall mean a retail establishment that primarily sells food but may also sell other convenience and household goods; the term does not include a convenience store. The business shall not have responsibility for enforcing this requirement but shall post conspicuous signage at all entrances informing its patrons of the requirements of this section.

(b) All restaurants, retail stores, salons, barber shops, grocery stores, and pharmacies in the City must require their employees to wear a face covering at all times while having face to face interaction with the public.

(c) 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 is exempt from this Ordinance.

Section 3. Penalties.

(a) A person who fails to comply with Section 2.(a) or Section 2.(b) of this Ordinance shall be guilty of a civil infraction, punishable by a noncriminal fine of not more than \$50.00. No state assessments will be assessed on this civil infraction/noncriminal fine.

(b) Each day of a continuing violation of this Ordinance shall be considered a separate and distinct offense. In addition to the fines established by this section, repeated violations of this Ordinance by a person who owns, manages, operates or otherwise controls a business subject to this Ordinance may, subject to all procedural protections set forth in the City Code of Ordinances, result in the suspension or revocation of any occupancy permit or business license issued to business where the repeated violations occurred. Repeated violations of this Ordinance are additionally hereby declared to be a public nuisance, which may be abated by the City by restraining order, preliminary and permanent injunction, or other means provided for by the City Code of Ordinances and laws of this state. The foregoing notwithstanding, every effort shall be made to bring the business into voluntary compliance with the terms of this Ordinance prior to the issuance of any citation.

(c) The City of Hardeeville Municipal Court shall have jurisdiction on any and all infractions and/or suspension/revocation of permits or licenses as set out in this Section 3.

Section 4. Severability.

If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 5. Effective Date; Expiration.

The provisions hereof shall be adopted upon a single hearing and two-thirds vote of the Governing Body, and shall be effective at noon on _____, 2020, and shall be terminated by the issuance of another ordinance or shall automatically expire on the 61st day after enactment of this Ordinance, whichever date is earlier.

DONE, RATIFIED AND ENACTED AS AN EMERGENCY ORDINANCE BY THE CITY COUNCIL OF THE CITY OF HARDEEVILLE, SOUTH CAROLINA, AT AN EMERGENCY MEETING, and approved at a meeting duly assembled by no less than an affirmative vote of two-thirds of the members of the Governing Body present, on this 1st day of July, 2020.

Harry Williams, Mayor
City of Hardeeville, South Carolina

ATTEST:

Dolores Pomarico, City Clerk
City of Hardeeville, South Carolina