TOWN OF BLUFFTON
BLUFFTON TOWN EMERGENCY COUNCIL MEETING

ELECTRONIC MEETING

Tuesday, August 26 | 9 AM

This meeting can be viewed on the Town of Bluffton's Facebook page (https://www.facebook.com/TownBlufftonSC/)

PUBLIC COMMENT – SUBMIT FORM ELECTRONICALLY
PUBLIC COMMENTS WILL BE READ ALOUD BY THE CLERK FOR THE RECORD.

ALL REQUESTS FOR PUBLIC COMMENT WILL BE ACCEPTED UP TO TWO (2) HOURS PRIOR TO THE SCHEDULED MEETING START TIME.

I. Call to Order – Mayor Sulka

II. Pledge of Allegiance

III. Invocation

IV. Adoption of the Agenda

V. Public Comments*

VI. Formal Item Agenda:

1. Consideration of an Emergency Ordinance of the Town of Bluffton, South Carolina, Extending the Requiring of Individuals to Wear Face Coverings in Light of the COVID-19 Pandemic; and Matters Related Thereto; and Severability – Scott Marshall, Deputy Town Manager

VII. Town Council Discussion

VIII. Adjournment

"FOIA Compliance – Public notification of this meeting has been published and posted in compliance with the Freedom of Information Act and the Town of Bluffton policies."

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), the Town of Bluffton will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. The Town of Bluffton Council Chambers are ADA compatible. Any person requiring further accommodation should contact the Town of Bluffton ADA Coordinator at 843.706.4500 or adacoordinator@townofbluffton.com as soon as possible but no later than 48 hours before the scheduled event.

*Please note that each member of the public may speak at one public comment session and a form must be filled out and given to the Town Clerk. Public comment must not exceed three (3) minutes.

*Public Comments will be accepted up to 2 hours prior to the scheduled meeting start time. Please **SUBMIT FORM ELECTRONICALLY**. All comments will be read aloud for the record and will be provided to Town Council.

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TOWN COUNCIL

STAFF REPORT
Executive Office

MEETING DATE:	August 26, 2020
PROJECT:	Consideration of an Emergency Ordinance of the Town of Bluffton, South Carolina, Requiring Individuals to Wear Face Coverings in Certain Circumstances in Light of the COVID-19 Pandemic; and Matters Related Thereto; and Severability
PROJECT MANAGER:	Scott M. Marshall, MPA, ICMA-CM – Deputy Town Manager

RECOMMENDATION:

Request Town Council's consideration of the Emergency Ordinance at Attachment 1, which renews the current requirement for the wearing of face coverings in certain public settings and by employees of certain public establishments, as set forth in Emergency Ordinance 2020-10.

BACKGROUND:

On June 30, 2020, in response to an increasing number of positive COVID-19 tests reported by the South Carolina Department of Health and Environmental Control (SCDHEC) and as part of a regional effort to slow the spread of the disease, Town Council enacted Emergency Ordinance 2020-10. Emergency Ordinance 2020-10 requires the wearing of face coverings in certain social situations and by employees of certain establishments who come into contact with the public in the performance of their jobs. The ordinance went into effect on July 1 and will expire on August 31.

DISCUSSION:

The Town of Bluffton Emergency Ordinance presented for consideration at Attachment 1 replicates the requirements specified in Emergency Ordinance 2020-10 and contains the following features:

Section 1. Definitions.

a. "Face Covering" is defined as 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. "Person" as used in the context of Section 3.b. is 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 any building open to the public in the Town must wear a face covering while inside the building.

b. All restaurants, retail establishments of every description, salons, grocery stores, and pharmacies in the limits of the Town shall require their employees to wear a Face Covering at all times that the employees are in any area where the general public is allowed. This requirement also applies to all persons providing or utilizing over-the-road public or commercial transportation, including tours; and all businesses or employees while interacting with people in outdoor spaces, including, but not limited to, curbside pickup, delivery, and service calls. All such businesses must provide face coverings or materials for the making of such face coverings for their employees. Such coverings or materials may be made available staff-wide or individually upon employee request so long as the result is the organization-wide use of face coverings. Nothing shall prevent an employee from fashioning his or her own cloth face mask. If a worker or customer refuses to wear a cloth face covering for other than medical reasons, a business may decline entry or service to that individual.

c. The following individuals are exempt from this Ordinance: any person under the age of eight, or who is unable to safely wear a Face Covering due to age or an underlying health condition, or who is unable to remove the Face Covering without the assistance of others; and any person traveling in a personal vehicle, or when a person is alone or is in the presence of only household members in an enclosed space, and people who are actively drinking or eating. This Ordinance does not relieve business establishments and restaurants from other social distancing requirements imposed by the Governor's Executive Orders.

Section 3. Penalties.

a. Failure to comply is a civil infraction, punishable by a fine of not more than $50.00.

b. Each day of non-conformance is a separate and distinct offense. Repeated offenses may result in suspension or revocation of occupancy permits and/or business license, where applicable. Repeated violations may also be declared a public nuisance. **However, every effort shall be made to bring the person or business into compliance before issuing a citation**.

Section 4. Severability. If any part of the Ordinance is deemed invalid, the remaining portion(s) of the Emergency Ordinance shall remain valid.

Section 5. Effective Date; Expiration.

a. Must be passed by a super majority of at least 2/3 of Town Council on a single reading. This means the ordinance must receive a favorable vote of no less than four out of five members of the Town Council of the Town of Bluffton.

b. Emergency Ordinance shall be effective on September 1, 2020.

c. Emergency Ordinance is terminated when rescinded by a subsequent ordinance, or on the 61st day of enactment, whichever is sooner. This means the Emergency Ordinance, in absence of further Town Council action, would expire on November 1, 2020.

ATTACHMENTS:

1. Emergency Ordinance of the Town of Bluffton, South Carolina, Requiring Individuals to Wear Face Coverings in Certain Circumstances in Light of the COVID-19 Pandemic; and Matters Related Thereto; and Severability.
2. Emergency Ordinance 2020-10 of the Town of Bluffton, South Carolina.
3. Motion Language.

ATTACHMENT 1

EMERGENCY ORDINANCE No. 2020-17

TOWN OF BLUFFTON, SOUTH CAROLINA

AN EMERGENCY ORDINANCE OF THE TOWN OF BLUFFTON, 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, 2020-23, 2020-29, 2020-35, 2020-38, 2020-40, 2020-42, 2020-44, 2020-48 and 2020-53; 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 August 17, 2020, the total number of confirmed COVID-19 cases in the state of South Carolina was 107,672 and the number of confirmed deaths was 2,343; with the number of confirmed cases in Beaufort County at 4,397; and

WHEREAS, the number of cases continues to grow, and if COVID–19 continues to spread in the Town, 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 safetyof the Town'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 Town is taking steps to try to protect the citizens and employees of the Town from increased risk of exposure; and

WHEREAS, considering the foregoing, Council adopted Emergency Ordinance 2020-10 on June 30, 2020, which prescribed requirements for face coverings as specified in Section 2 of this ordinance; and

WHEREAS, data indicate a correlation between mandated requirements for face coverings and a downward trend in positive COVID-19 cases; and

WHEREAS, in response to the continuing health risk associated with the COVID-19 pandemic, Council deems the wearing of face coverings to be an effective infection control strategy; and

WHEREAS, Emergency Ordinance 2020-10 expires on August 31, 2020 and Council is continuing to take measures to control outbreaks and minimize public health risks.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BLUFFTON, 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 any building open to the public in the Town must wear a face covering while inside the building.

(b) All restaurants, retail establishments of every description, salons, grocery stores, and pharmacies in the limits of the Town shall require their employees to wear a Face Covering at all times that the employees are in any area where the general public is allowed. This requirement also applies to all persons providing or utilizing over-the-road public or commercial transportation, including tours; and all businesses or employees while interacting with people in outdoor spaces, including, but not limited to, curbside pickup, delivery, and service calls. All such businesses must provide face coverings or materials for the making of such face coverings for their employees. Such coverings or materials may be made available staff-wide or individually upon employee request so long as the result is the organization-wide use of face coverings. Nothing shall prevent an employee from fashioning his or her own cloth face mask. If a worker or customer refuses to wear a cloth face covering for other than medical reasons, a business may decline entry or service to that individual.

(c) The following individuals are exempt from this Ordinance: any person under the age of eight, or who is unable to safely wear a Face Covering due to age or an underlying health condition, or who is unable to remove the Face Covering without the assistance of others; and any person traveling in a personal vehicle, or when a person is alone or is in the presence of only household members in an enclosed space, and people who are actively drinking or eating. This Ordinance does not relieve business establishments and restaurants from other social distancing requirements imposed by the Governor's Executive Orders.

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 Town 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 Town by restraining order, preliminary and permanent injunction, or other means provided for by the Town 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 Town of Bluffton 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 on September 1, 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 TOWN COUNCIL OF THE TOWN OF BLUFFTON, 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 26th day of August, 2020.

_____
Lisa Sulka, Mayor
Town of Bluffton, South Carolina

ATTEST:

_____
Kimberly Chapman, Town Clerk
Town of Bluffton, South Carolina

ATTACHMENT 2

EMERGENCY ORDINANCE No. 2020-10

TOWN OF BLUFFTON, SOUTH CAROLINA

AN EMERGENCY ORDINANCE OF THE TOWN OF BLUFFTON, 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 24, 2020, the total number of confirmed COVID-19 cases in the state of South Carolina was approximately 27,842 and the number of confirmed deaths was 683; with the number of confirmed cases in Beaufort County at 947, the number of estimated cases at 5,817, and the number of possible cases being 6,764; and

WHEREAS, the number of cases is growing rapidly, and if COVID–19 continues to spread in the Town, 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 Town'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 Town is taking steps to try to protect the citizens and employees of the Town 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 TOWN COUNCIL OF THE TOWN OF BLUFFTON, 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 any building open to the public in the Town must wear a face covering while inside the building.

(b) All restaurants, retail establishments of every description, salons, grocery stores, and pharmacies in the limits of the Town shall require their employees to wear a Face Covering at all times that the employees are in any area where the general public is allowed. This requirement also applies to all persons providing or utilizing over-the-road public or commercial transportation, including tours; and all businesses or employees while interacting with people in outdoor spaces, including, but not limited to, curbside pickup, delivery, and service calls. All such businesses must provide face coverings or materials for the making of such face coverings for their employees. Such coverings or materials may be made available staff-wide or individually upon employee request so long as the result is the organization-wide use of face coverings. Nothing shall prevent an employee from fashioning his or her own cloth face mask. If a worker or customer refuses to wear a cloth face covering for other than medical reasons, a business may decline entry or service to that individual.

(c) The following individuals are exempt from this Ordinance: any person under the age of eight, or who is unable to safely wear a Face Covering due to age or an underlying health condition, or who is unable to remove the Face Covering without the assistance of others; and any person traveling in a personal vehicle, or when a person is alone or is in the presence of only household members in an enclosed space, and people who are actively drinking or eating. This Ordinance does not relieve business establishments and restaurants from other social distancing requirements imposed by the Governor's Executive Orders.

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 Town 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 Town by restraining order, preliminary and permanent injunction, or other means provided for by the Town 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

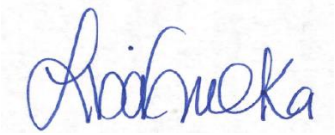
issuance of any citation.

(c) The Town of Bluffton 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 July 1, 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 TOWN COUNCIL OF THE TOWN OF BLUFFTON, 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 30th day of June, 2020.



Lisa Sulka, Mayor
Town of Bluffton, South Carolina

ATTEST:

Kimberly Chapman, Town Clerk
Town of Bluffton, South Carolina

ATTACHMENT 3

MOTION LANGUAGE

"I MOVE TO APPROVE EMERGENCY ORDINANCE 2020-17 OF THE TOWN OF BLUFFTON, SOUTH CAROLINA, REQUIRING INDIVIDUALS TO WEAR FACE COVERINGS IN CERTAIN CIRCUMSTANCES IN LIGHT OF THE COVID-19 PANDEMIC; AND MATTERS RELATED THERETO; AND SEVERABILITY"