

ORDINANCE NO. 2021-18

AN EMERGENCY ORDINANCE FOR THE CITY OF FOREST ACRES, STATE OF SOUTH CAROLINA, REQUIRING FACE COVERINGS BE WORN IN CERTAIN CIRCUMSTANCES AND PROVIDING PENALTIES FOR VIOLATIONS.

WHEREAS, SARS-CoV-2 (the Coronavirus) is the virus that causes the disease COVID-19, a serious public health concern that requires extraordinary protective measures and vigilance;

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

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 Coronavirus;

WHEREAS, the City of Forest Acres adopted an emergency face mask ordinance on July 2, 2020 (Ordinance Number 2020-14); thereafter a second/extended emergency ordinance on August 10, 2020 (Ordinance Number 2020-18); thereafter a third/extended emergency ordinance on September 8, 2020 (Ordinance Number 2020-20); thereafter a fourth/extended emergency ordinance on December 8, 2020 (Ordinance Number 2020-24); thereafter a fifth/extended emergency ordinance on February 2, 2021 (Ordinance Number 2021-3); thereafter a sixth/extended emergency ordinance on March 9, 2021 (Ordinance Number 2021-5); and thereafter a seventh/extended emergency ordinance on April 13, 2021 (Ordinance Number 2021-9) (subsequently rescinded by Ordinance Number 2021-11 on May 18, 2021);

WHEREAS, it is well recognized that the Delta variant of COVID-19 causes increased risk of infections, community spread, and public health concern that requires protective measures and vigilance;

WHEREAS, as of September 8, 2021, the total number of confirmed cases in South Carolina was approximately 627,981 with confirmed deaths of 9,604, and the total number of confirmed cases in Richland County was approximately 60,327 with confirmed deaths of 648 and a 7-day new case average of 306;

WHEREAS, COVID-19 and the Delta variant have spread across the state with the South Carolina Department of Health and Environmental Control (“SCDHEC”) confirming the localized person-to-person spread of COVID-19 in South Carolina, which indicates a significant risk of exposure and infection and creating an extreme public health risk;

WHEREAS, the number of cases is growing rapidly and should COVID-19 and the Delta variant continue 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;

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 the Delta variant, with the CDC recommending for even “fully vaccinated people to wear a mask in public indoor settings in areas of substantial or high transmission”, including Richland County;

WHEREAS, taking measures to control outbreaks minimizes the risk to the public, maintains the health and safety of City residents, and limits the spread of infection in our communities and within the healthcare delivery system;

WHEREAS, S.C. Code Ann. §5-7-250 empowers City Council to enact emergency ordinances affecting life, health, safety, or property; and

WHEREAS, the Mayor and Council of the City of Forest Acres find that a public emergency continues to exist which is affecting the life, health and safety of its residents, that it is in the public interest to protect public health and the general welfare of the public and in an ongoing effort to prevent the spread of the disease, City Council deems it proper and necessary to adopt/continue the emergency Ordinance to require the wearing face coverings in certain locations;

NOW, THEREFORE, pursuant to the power vested in the Council of the City of Forest Acres by virtue of Sections 5-7-250(d) and 30-4-80(c), Code of Laws of South Carolina, 1976, as amended and City of Forest Acres Code of Ordinances Section 2-107(c) providing for enactment of an emergency ordinance affecting life, health, safety, or property upon one (1) reading without notice or hearing by affirmative two-thirds of the members present, and shall expire automatically on the sixty-first (61st) day following enactment;

BE IT ORDAINED BY THE CITY COUNCIL, City of Forest Acres:

Section 1. All persons aged five (5) years or older entering a building or structure open to the general public, including but not limited to, restaurants, retail stores, salons, barber shops, grocery stores, convenience stores, medical and dental offices, pharmacies, and fitness centers and studios while not engaging in exercise in the City must wear a Face Covering while inside the building or structure, excluding restaurants while seated. 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.

Section 2. All restaurants, retail stores, salons, barber shops, grocery stores, medical and dental offices, fitness centers and studios, pharmacies, and businesses engaged in food preparation in the City must require their employees to wear a Face Covering at all times while having face to face interaction with the public, alternatively provide a separating barrier between the employee and the public.

Section 3. 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 4. For purposed of this ordinance "Face Covering" shall be defined to mean masks of a uniform piece of cloth, fabric, synthetic or other permeable material that securely covers a person's nose and mouth and remains affixed in place without the use of one's hands or plastic face shield. Face Coverings include, but are not limited to, bandanas, medical masks, cloth masks, scarves, gaiters, and face shields worn to cover the person's nose and mouth."

Section 5. A person who fails to comply with Section 1 of this Ordinance shall be guilty of a civil infraction, punishable by a fine of not more than \$25.00.

Section 6. A person who fails to comply with Section 2 of this Ordinance shall be guilty of a civil infraction, punishable by a fine of not more than \$100.00. 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, 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 is 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 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. For the purposes of Section 2 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 social distancing 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 7. 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 8. This emergency ordinance to temporarily require the wearing of Face Coverings shall: (1) terminate by adoption of a subsequent ordinance or (2) automatically expire on **October 13, 2021**.

Section 9. That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

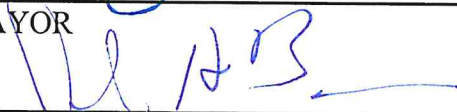
Section 10. To the extent that state law expressly prohibits enforcement of a municipal mask ordinance in public schools, and until any such law shall expire or be adjudicated by the Supreme Court of South Carolina not to have the effect of preventing such enforcement, this emergency ordinance shall not apply to public schools.

Effective date: This ordinance shall take effect immediately.


ORDAINED AND ADOPTED under the Corporate Seal of the City of Forest Acres, State of South Carolina, this 14th day of September, 2021.




MAYOR




COUNCILPERSON



COUNCILPERSON



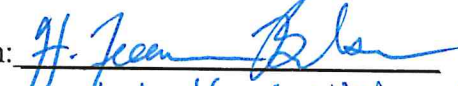
COUNCILPERSON


COUNCILPERSON

ATTEST:



City Clerk

Approval of City Attorney as to form: 

Person Requesting Ordinance: City Council
on behalf of William C. Dillard, Jr.

First and Final Reading: September 14, 2021