

TOWN OF KIAWAH ISLAND

ORDINANCE 2020-04

**AN EMERGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF KIAWAH ISLAND
REGARDING FACE COVERINGS**

The Town Council of the Town of Kiawah Island, South Carolina, duly assembled, hereby ordains that the following Emergency Ordinance be adopted pursuant to South Carolina Code § 5-7-250:

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 (WHO) declared COVID-19 a pandemic; and

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

WHEREAS, the Centers for Disease Control (CDC) currently has a Level 3 travel advisory in place that covers the entire world, including the United States; and

WHEREAS, the Governor of South Carolina declared a State of Emergency on March 13, 2020, to enhance the State's response to the COVID-19 virus's impact on the State; and

WHEREAS, the Mayor of the Town of Kiawah Island declared a State of Emergency within the Town on March 19, 2020, and his proclamation was adopted by Town Council on March 25, 2020; and

WHEREAS, Town Council adopted several versions of a prior Emergency Ordinance in the past three months, but have since lifted most restrictions, although some restrictions on citizens, visitors, and businesses remain in place; and

WHEREAS, since the lifting of restrictions, the State, County, and Town has seen a resurgence in the spread of COVID-19; and

WHEREAS, as reported by the South Carolina Department of Health and Environmental Control (SCDHEC), as of June 22, 2020, the total number of confirmed cases in South Carolina is 26,572, with total possible cases of 189,800. In Charleston County, the total number of reported cases is 2,251 with total possible cases of 16,079. The 29455 zip code, which includes the Town of Kiawah Island, has 85 new cases in the last two weeks; and

WHEREAS, both South Carolina and Charleston County have had more new daily cases reported in the last week than ever reported previously. On June 19, 2020, South Carolina

reported 1,159 new cases, more than ever previously reported. On June 21, 2020, Charleston County reported 214 new cases, more than ever previously reported; and

WHEREAS, citizens and visitors, particularly those visiting commercial businesses within the Town have had a low rate of mask usage and have infrequently engaged in voluntary social distancing and other actions designed to impede the social transmission of the virus; and

WHEREAS, the CDC and SCDHEC have repeatedly advised the use of cloth face coverings to slow the spread of COVID-19; and

WHEREAS, face coverings can decrease the spread of respiratory droplets from people, and evidence has grown, showing in numerous recent studies that the use of face coverings decreases the spread of COVID-19 within populations; and

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

WHEREAS, Sections 5-7-30 (the "Home Rule Statute") and 5-7-250 of the South Carolina Code of Laws, as well as the Governor's Orders, all empower Council to enact emergency ordinances affecting life, health, or safety; and

WHEREAS, the South Carolina Attorney General on June 24, 2020 has issued an opinion that municipalities are authorized to issue ordinances requiring the public use of masks; and

WHEREAS, in light of the foregoing, Town Council of the Town of Kiawah Island deems it proper and necessary to amend its prior emergency ordinance and adopt this emergency ordinance in order to address how the Town and Council will proceed in light of the above emergency;

NOW, THEREFORE, BE IT, AND IT HEREBY IS, RESOLVED BY THE TOWN COUNCIL FOR THE TOWN OF KIAWAH ISLAND, SOUTH CAROLINA, THAT THE FOLLOWING EMERGENCY PROCEDURES ARE HEREBY ADOPTED:

1. The directives and procedures adopted by the Town's prior Emergency Ordinance No. 2020-03 remains in place and is not amended or rescinded by this Emergency Ordinance.
2. "Face Covering" or "mask" means a cloth, fabric, or other soft or permeable material, without holes, that covers both the mouth and nose, and includes surgical masks, N-95 respirators, face shields, handmade masks, bandanas, and neck gaiters.
3. All persons, including employees, entering any business, other than a restaurant, must wear a face covering while inside the establishment. Businesses are required to post a notice in their business visible to customers entering the business or waiting to enter the business informing customers that the use of Face Coverings by customers and employees is mandated by law.

4. Restaurants are required to adopt and enforce the Face Covering provisions of the Phase Two recommendations prepared and published by the South Carolina Restaurant and Lodging Association.

5. All persons waiting to enter a business establishment must wear a mask unless they can maintain social distancing of at least (6) feet from other persons, other than members of the same family or household.

6. The following persons are exempted from the Face Covering requirement:

- a. Persons under the age of three years old; or
- b. Persons for whom a face covering would cause impairment due to an existing health condition or disability; or
- c. Persons who are actively eating or drinking; or
- d. Persons in private offices; or
- e. Persons exclusively with members of a family or the same household, and no other person other than such family or household is within the same enclosed area.

7. Businesses and restaurants are responsible for enforcing this Emergency Ordinance with regards to their employees only and are subject to the penalties included herein for violations occurring inside of their business by employees. Essential businesses and restaurants are required to post a notice in their business visible to customers entering the business informing customers that the use of Face Coverings by customers and employees is mandated by law. Failure to post such a notice is a violation of this Emergency Ordinance.

8. This Emergency Ordinance may be enforced by the Town's code enforcement officers. Persons violating this Emergency Ordinance will be subject to a criminal fine of \$25.00 plus required statutory assessments. Businesses not requiring employees to wear Face Coverings will be subject to a criminal fine of \$100.00 plus required statutory assessments. Each day of the infraction shall be considered a separate offense. In addition, any violation may be charged as an infraction with any other relevant civil or criminal penalties contained in the Kiawah Island Municipal Code, or civil or criminal penalties under state law, or federal law, including violations of S.C. Code Section 16-7-10 (Illegal acts during state of emergency), and penalties authorized pursuant to Executive Orders issued by the South Carolina Governor. In addition, the Governor has authorized cities to seek an injunction, mandamus, or other appropriate legal action in the courts of the State.

9. All net fines (not including assessments or other payments directed elsewhere under State law) paid to the Town for violations of this Emergency Ordinance will be earmarked and donated to a nonprofit or charitable organization to be chosen at a later date.

10. Should any provision, section, paragraph, sentence or word of this Emergency 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 Emergency Ordinance as hereby adopted shall remain in full force and effect.

11. This Emergency Ordinance shall take effect at noon on July 2, 2020.

12. This Emergency Ordinance shall remain in place until July 29, 2020, but shall automatically extend for one successive thirty (30) day period until August 28, 2020 unless acted on by Town Council.

13. All measures taken herein are subject to modification, repeal, or additional restrictions as required by changes in the pandemic, including increased incidence, rate of spread in the Charleston region, and rate of compliance.

MOVED, APPROVED AND ADOPTED THIS _____ DAY OF _____, 2020.

Craig Weaver, Mayor

ATTEST:

By: _____
Petra Reynolds, Town Clerk

1st Reading:

No Second Reading per S.C. Code § 5-7-250