

## EMERGENCY ORDINANCE NO. 2021-03

### **REQUIRING INDIVIDUALS TO WEAR FACE COVERINGS IN RETAIL AND FOODSERVICE ESTABLISHMENTS, AND MATTERS RELATED THERETO WHEREAS:**

1. 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
2. On March 11, 2020, the World Health Organization declared a world-wide pandemic; and
3. On March 13, 2020, the President of the United States declared a National Emergency for the United States and its territories to reduce the spread of the virus; and
4. On March 13, 2020, the Governor of the State of South Carolina Henry McMaster declared a state of emergency for the State of South Carolina; and
5. S.C. Code Ann. §4-9-130 empowers Council to enact emergency ordinances affecting life, health, safety, or property; and
6. COVID- 19 has spread across the state with the South Carolina Department of Health and Environmental Control (“SCDHEC”) confirming the localized person-to-person spread of COVID–1 9 in South Carolina, which indicates a significantly high risk of exposure and infection creating an extreme public health risk; and,
7. As of December 28, 2020, there were 275,285 confirmed cases throughout the State of South Carolina, 1,389 confirmed cases in Barnwell County, 69 hospitalizations, and 28 deaths in Barnwell County; and
8. The number of cases is growing rapidly and if COVID-19 continues to spread in the City/County, 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
9. 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
10. 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
11. Taking measures to control outbreaks minimizes the risk to the public, maintains the health and safety of the City's residents, and limits the spread of infection in our communities and within the healthcare delivery system; and
12. In order to protect, preserve, and promote the general health, safety and welfare and the peace and order of the City, the City is taking steps to try to protect the citizens and employees of the City from increased risk of exposure; and
13. In light of the foregoing, City Council deems it proper and necessary to adopt this emergency Ordinance; and

**NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY OF BARNWELL AS AN EMERGENCY ORDINANCE THAT:**

This 4th day of January 2021, that facial coverings or masks shall be required in public places and public buildings within the City to slow the spread of the novel coronavirus disease, known as COVID- 19 as follows:

1. All persons entering a commercial establishment, or a city owned public building in the City must wear a face covering while inside the establishment. This paragraph does not apply to religious establishments. However, the use of face coverings is recommended during religious activities as well.
2. All restaurants, retail stores, salons, 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.
3. All employees of the City are required to wear Face Coverings unless they are in their departmental or private offices, alone or maintaining social distance with fellow employees or in spaces dealing with the public that have approved safeguards that provide similar protection; Employees conducting City services in the field or other areas outside City Facilities shall wear a Face Covering only when dealing with the public. Employees engaged in outdoor work activities are exempt from this requirement.
4. 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.
5. Face coverings are not required in the following circumstances:
  - a) Children under age 5.
  - b) Anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the mask without assistance.
  - c) In personal vehicles.
  - d) When a person is alone in enclosed spaces.
  - e) During outdoor physical activity, provided the active person always maintains a minimum distance of six (6) feet from other people.
  - f) When a person is alone or only with other household members.
  - g) While actively drinking, eating, or smoking.
  - h) When wearing a face covering causes or aggravates a health condition.
  - i) When wearing a face covering would prevent the receipt of personal services.
  - j) When complying with direction of law enforcement officers.
6. Education and voluntary compliance are the desired means of enforcement. However, any person who, after being first duly warned, is found to have failed to comply with Paragraph 1 of this Ordinance shall be guilty of a civil infraction, punishable by a fine of not more than \$25.00.
7. A person who fails to comply with Paragraph 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. 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 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 Paragraph 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.

8. Should any provision, 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, paragraphs, sentences, or words of this Ordinance as hereby adopted shall remain in full force and effect.
9. This Ordinance is effective as of noon on the first Tuesday following the enactment of this Ordinance.
10. This Emergency Ordinance may be terminated by the enactment of another ordinance terminating same; and if not terminated sooner shall expire automatically as of the sixty-first day following the date of enactment.

**DONE IN MEETING DULY ASSEMBLED**, this 4th day of January, 2021.