Emergency Ordinance 06302020 Extension 09012020

REQUIRING INDIVIDUALS TO WEAR FACE COVERINGS IN RETAIL AND FOODSERVICE ESTABLISHMENTS, AND MATTERS RELATED THERETO

WHEREAS, the 2019 Novel Coronavirus ("COVID-19") is a respiratory disease that can result in serious illness or death by the SARS-CoV-2 virus, which is a new strain of coronavirus previously unidentified in humans and which can spread from person to person;

WHEREAS, the World Health Organization declared COVID-19 a Public Health Emergency of International Concern on January 30, 2020;

WHEREAS, the Centers for Disease Control and Prevention (the "CDC") has warned of the high public health threat posed by COVID-19 globally and in the United States;

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary declared a public health emergency in the United States for COVID-19 under Section 391 of the Public Health Service Act;

WHEREAS, on March 13, 2020, the President of the United States declared that the COVID-19 outbreak in the United States constitutes a national emergency, which began on March 1, 2020;

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;

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);

WHEREAS, the State is experiencing a dramatic increase in the number of identified new COVID-19 cases, and as of June 25, 2020, the South Carolina Department of Health and Environmental Control ("DHEC") is reporting that there have been 27,842 confirmed COVID-19 cases and 683 confirmed COVID-19 deaths in the State;

WHEREAS, if COVID–19 cases continue to increase in the State and in Winnsboro the demand for medical, pharmaceutical, personal, and general cleaning supplies may overwhelm sources of supply; the private and public sector work force may be negatively impacted by absenteeism; and the demand for medical facilities may exceed locally available resources;

WHEREAS, health authorities, including the CDC, the Surgeon General of the United States, and DHEC have recommended the use of face coverings as a means of preventing the spread of COVID-19; and

WHEREAS, S.C. Code § 5-7-250(d) provides that "[t]o 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;"

WHEREAS, the Town Council of Winnsboro has determined, based on the recommendations of public health experts and responsive to a serious threat to the public health, safety, and welfare of its citizens, that it would serve the public interest and be within the Winnsboro's police powers under Home Rule and S.C. Code § 5-7-60 to require that individuals wear face coverings in certain situations and locations;

WHEREAS, the South Carolina Attorney General, on June 25, 2020, issued a public statement that enacting local mask requirements is within the police power of municipalities and is not preempted by State law;

WHEREAS, this Ordinance has been approved by at least two-thirds of the Councilmembers present at the meeting in which it was considered;

NOW, THEREFORE, be it ordained by the Town Council of the Winnsboro as follows:

Section 1. Definitions. As used herein, the terms below shall have the following meanings:

1) "Establishment" means a Foodservice Establishment or Retail Establishment.
2) "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.
3) "Foodservice Establishment" means any establishment within Winnsboro that sells prepared food on a dine-in, delivery, carry-out, or drive-through basis.
4) "Responsible Person," with respect to an Establishment, means any individual associated with the Establishment who has the authority and ability to enforce the requirements of the Ordinance within the Establishment, such as an owner, manager, or supervisor. "Responsible Person" may also include an employee or other designee that is present at

the Establishment but does not have the title of manager or supervisor, but who has the temporary or designated authority and ability to ensure that the requirements of this Ordinance are met while the Establishment is open to the public.

5) "Retail Establishment" means any retail business, organization, establishment, or facility open to the public within Winnsboro, including without limitation:
   a) grocery stores, convenience stores, and any other establishment engaged in the retail sale of non-prepared food;
   b) commercial stores engaged in the retail sale of goods or services to the public including without limitation sporting goods stores; furniture and home-furnishings stores; clothing, shoe, and clothing-accessory stores; jewelry, luggage, and leather goods stores; department stores; hardware and home-improvement stores; book, craft, and music stores; florists and flower stores; and all other stores that sell supplies for household consumption or use;
   c) pharmacies and other stores that sell medications or medical supplies;
   d) alcoholic beverage stores; and
   e) laundromats.

Section 2. Use of Face Coverings. Effective as of 12:01 AM on July 3, 2020

1) all customers are required to wear Face Coverings while inside the enclosed area of any Retail Establishment or Foodservice Establishment;
2) all Retail Establishments shall require staff to wear, and those staff shall wear, Face Coverings while working in areas open to the general public and areas in which interactions with other staff are likely in which social distancing of at least six feet cannot be observed; and
3) all Foodservice Establishments shall require staff who interact with customers (including, without limitation, delivery personnel) to wear, and those staff shall wear, Face Coverings while working.

Section 3. Exemptions. Face Coverings shall not be required:

a) in outdoor or unenclosed areas appurtenant to Retail Establishments or Foodservice Establishments in which social distancing of at least six feet is possible and observed;
b) for people whose religious beliefs prevent them from wearing a Face Covering;
c) for those who cannot wear a Face Covering due to a medical or behavioral condition;
d) for children under six years old, provided that adults accompanying children age two through six shall use reasonable efforts to cause those children to wear Face Coverings while inside the enclosed area of any Retail Establishment or Foodservice Establishment
e) for patrons of Foodservice Establishments while they are dining;
f) in private, individual offices;

g) when complying with directions of law enforcement officers;
h) in settings where it is not practical or feasible to wear a Face Covering, including when obtaining or rendering goods or services such as the receipt of dental services or while swimming;
i) while exclusively with members of a family or the same household, and no person other than such family or household is within the same enclosed area.

Section 4. Individual Violations: Civil Infraction. Any person violating the provisions of this Ordinance by failing to wear a Face Covering when required shall be guilty of a civil infraction, punishable by a penalty of not more than $25.Each day of a continuing violation of this Ordinance shall be considered a separate and distinct offense.

Section 5. Responsible Person Violations: Civil Infraction. Any Responsible Person violating the provisions of this Ordinance by failing to require employees of the Establishment to wear a Face Covering when required shall be guilty of a civil infraction, punishable by a penalty of not more than $50. Each day of a continuing violation of this Ordinance shall be considered a separate and distinct offense.

Section 6. Responsible Person Violations: Revocation of Permits and Licenses. In addition to the penalties established by Section 5 hereof, repeated violations of this Ordinance by a Responsible Person by failing to require employees of the Establishment to wear a Face Covering may, subject to all procedural protections set forth in the Winnsboro Code, result in the suspension or revocation of any occupancy permit or business license issued to business where the repeated violations occurred.

Section 7. Responsible Person Violations: Public Nuisance. In addition to the penalties established by Section 5 hereof, repeated violations of this Ordinance by a Responsible Person by failing to require employees of the Establishment to wear a Face Covering are additionally hereby declared to be a public nuisance, which may be abated by the Town of Winnsboro 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 Establishments into voluntary compliance with the terms of this Ordinance prior to the commencement of any enforcement action.

Section 8. Duties of Establishments and Responsible Persons. Establishments and Responsible Persons shall have a duty to enforce the provisions of this Ordinance only against employees of the Establishment. Without limiting the generality of the foregoing, no Establishment or Responsible Person shall have any duty to require that customers, visitors, or other members of the general public wear Face Coverings.

Section 9. Suspension of Contrary Local Provisions. During the Emergency Term (as defined in Section 12 below), any ordinance, resolution, policy, or bylaw of the Town of Winnsboro that conflicts with the provisions hereof shall be and is hereby suspended and superseded.

Section 10. Expiration of Ordinance; Extension of Emergency Term. As provided by S.C. Code § 5-7-250(d), this Ordinance shall expire automatically as of the sixty-first day following the date of enactment (the "Emergency Term"). Notwithstanding the foregoing, however, Council may extend the Emergency Term by emergency ordinance for one or more additional terms, each of no more than sixty days, provided that the total duration of the Emergency Term shall not exceed six months without enacting an ordinance in the ordinary course.

Section 11. Severability. 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 12. Effective Date and Time. This emergency Ordinance shall take effect at 1201AM on July 3, 2020. Extended 60 days 9-1-20 – 10-30-20

Mayor Roger Gaddy MD

Attest

Don Wood Town Manager