

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ____-21HR

AN EMERGENCY ORDINANCE REQUIRING THE WEARING OF FACE MASKS IN
PUBLIC AND PRIVATE SCHOOL BUILDINGS TO SLOW THE SPREAD OF COVID-19.

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE COUNTY COUNCIL FOR RICHLAND COUNTY:

SECTION I.

WHEREAS, the SARS-CoV-2 virus (the Coronavirus) that causes the disease COVID-19 and the surge of the DELTA variant of this virus in our community is a serious public health concern especially for school age children, those who are twelve and under who are currently unable to receive a vaccination that has been approved for emergency use authorization; and

WHEREAS, reported vaccination rates in this State remain among the lowest in the country with less than forty-five percent of eligible South Carolinians fully vaccinated by the end of July, according to the South Carolina Department of Health and Environmental Control; and

WHEREAS, it has been reported that the recent surge in COVID-19 cases is pushing South Carolina's pediatric Intensive Care Units (ICU)'s to capacity and that a drop in childhood vaccinations due to the pandemic and an increase in other viral diseases as people have stopped social distancing and mask wearing are also contributing to the medical system's overload; and,

WHEREAS, all of those factors have created the "perfect storm" that has strained capacity at Prisma Health Children's Hospital in Columbia as more children are diagnosed with COVID-19 and other respiratory illnesses, causing crowded offices, emergency rooms, floors and intensive care units; and,

WHEREAS, during its first week of operation, the Kershaw County School District witnessed 113 students and 19 staff members test positive for COVID-19 and 48 of the 113 students who tested positive were elementary students who are unable to receive the vaccine. The district also had to quarantine 541 students with elementary students comprising just under half of those quarantined; and

WHEREAS, the Center for Disease Control and the South Carolina Department of Health and Environmental Control has determined that the use of face coverings helps control the spread of the coronavirus and the use of masks within schools may be the second best weapon against the virus after vaccination and would be the primary line of defense for school age children; and

WHEREAS, with schools in Richland County moving towards opening their doors to students and the troubling news concerning the cases in Kershaw County, action must be taken by Richland County to reduce the chances of our schools becoming superspreader epicenters; and

WHEREAS, the failure to undertake decisive action will cause detrimental harm to the general health, safety, and welfare of the County and the members of the County Council must take any and all steps to save lives and protect the welfare of all of the citizens of Richland County; and

WHEREAS, Section 4-9-25 of the South Carolina Code of Laws provides:

All counties of the State, in addition to the powers conferred to their specific form of government, have authority to enact regulations, resolutions, and ordinances, not inconsistent with the Constitution and general law of this State, including the exercise of these powers in relation to health and order in counties or respecting any subject as appears to them necessary and proper for the security, general welfare, and convenience of counties or for preserving health, peace, order, and good government in them. The powers of a county must be liberally construed in favor of the county and the specific mention of particular powers may not be construed as limiting in any manner the general powers of counties.

WHEREAS, Section 4-9-130 of the South Carolina Code of Laws provides:

To meet public emergencies affecting life, health, safety or the property of the people, council may adopt emergency ordinances; but such ordinances shall not levy taxes, grant, renew or extend a franchise or impose or change a service rate. Every emergency ordinance shall be designated as such and shall contain a declaration that an emergency exists and describe the emergency. Every emergency ordinance shall be enacted 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, Section 2-31, Division 2, Article II, Chapter 2 of the Richland County Code of Ordinances provides:

- (a) An emergency ordinance may be enacted only to meet public emergencies affecting life, health, safety, or the property of the people. Such an ordinance may not levy taxes, grant, renew or extend a franchise nor may it impose or change a service rate.
- (b) Each emergency ordinance shall contain a declaration that an emergency exists, defining the emergency, and shall be entitled an "Emergency Ordinance."

- (c) Emergency ordinances require no readings or prior publications before adoption by county council.
- (d) Emergency ordinances require a two-thirds (2/3) affirmative vote of members present for adoption.
- (e) An emergency ordinance is effective immediately on the date of adoption and shall expire automatically on the sixty-first day following the date of enactment.
- (f) The clerk of council shall be responsible for indexing and providing for compilation of the emergency ordinance adopted and shall, with the county attorney's assistance, cause a copy of the emergency ordinance to be filed in the office of the clerk of court.

WHEREAS, the County Council finds it necessary to take decisive action in order to protect, preserve, and promote the general health, safety, and welfare of the County by working to slow the spread of the coronavirus and the DELTA variant; and

WHEREAS, Richland County is still under a "State of Disaster Declaration" enacted on March 17, 2020, declaring COVID-19 an imminent threat to the citizens of the County; and

WHEREAS, in light of the foregoing, County Council deems it proper and necessary to adopt this emergency ordinance; and

NOW, THEREFORE, by virtue of the authority vested in the governing body of Richland County pursuant to Home Rule, S.C. Code Ann. Sections 4-9-25 and 4-9-130, and in accordance with the requirement of S.C. Code Ann. Section 4-9-130 and Section 2-31, Division 2, Article II, Chapter 2 of the Richland County Code of Ordinances, and in light of the foregoing, the governing body of Richland County declares that an emergency exists with respect to the presence of the coronavirus and the DELTA variant within public and private schools in the County, and pursuant to the above authorities adopts this EMERGENCY ORDINANCE, requiring the use of facial coverings for all faculty, staff, children over the age of two, and visitors in all buildings at public and private schools or daycares whose purpose is to educate or care for children between the ages of two and fourteen to slow the spread of the novel coronavirus and the disease within the County limits as follows:

1. Face coverings which cover the nose and mouth shall be required in all indoor facilities on school or daycare grounds. This paragraph does not apply to religious establishments or high schools, however, the use of face coverings is recommended at all establishments educating and caring for children.
2. Any person 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 imposition.
3. A person who fails to comply with Paragraph 1 shall be guilty of a civil infraction, punishable by a fine of not more than \$100.00. Each violation of this Ordinance shall be considered a separate and distinct offense. In addition to the fines established by this paragraph, repeated violations of this Ordinance by a person who owns, manages,

operates or otherwise controls a school or business subject to this Ordinance may, subject to all procedural protections set forth in the County Code, result in the suspension or revocation of any occupancy permit or business license issued to a 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 County 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 school or business into voluntary compliance with the terms of this Ordinance prior to the issuance of any citation. For the purposes of this Paragraph of this Ordinance, "person" shall be defined as any individual associated with the school or business who has the control or authority and ability to enforce the requirements of the Ordinance within the school or business, such as a principal, vice principal, administrator, staff, 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 principal, administrator, manager, supervisor, etc., but has the authority and ability to ensure that the requirements of this Ordinance are met while the school or business is open.

SECTION II. Mask Availability. Richland County will provide all necessary face coverings (facemasks) for all schools or daycares at their request so no school funds are required to be expended to comply with the this emergency ordinance.

SECTION III. Effective Date. This Emergency Ordinance shall be effective beginning on _____, 2021. This ordinance shall automatically expire on the 61st day after its enactment.

RICHLAND COUNTY, SOUTH CAROLINA

By: _____
Paul Livingston, Chair
Richland County Council

ATTEST THIS ____ DAY OF
_____, 2021

Michelle Onley
Interim Clerk to Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content