State of South Carolina

Executive Department

FILED

MAR 17 2020

Mark Hammond
SECRETARY OF STATE

Office of the Governor

EXECUTIVE ORDER NO. 2020-10

WHEREAS, on March 13, 2020, the undersigned issued Executive Order No. 2020-08, declaring a State of Emergency based on a determination that the 2019 Novel Coronavirus ("COVID-19") poses an actual or imminent public health emergency for the State of South Carolina; and

WHEREAS, in addition to declaring a State of Emergency, Executive Order No. 2020-08 placed certain units or personnel of the South Carolina National Guard on State Active Duty, pursuant to section 25-1-1840 of the South Carolina Code of Laws, as amended, and directed, *inter alia*, the closure of public schools in those counties where the South Carolina Department of Health and Environmental Control ("DHEC"), in consultation with the Centers for Disease Control and Prevention ("CDC"), identified instances of COVID-19 transmission via "community spread"; and

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; and

WHEREAS, on March 15, 2020, the undersigned issued Executive Order No. 2020-09, directing, *inter alia*, the closure of all public schools in the State of South Carolina for students and non-essential employees beginning Monday, March 16, 2020, and through Tuesday, March 31, 2020, and the postponement or rescheduling of any election scheduled to be held in this State on or before May 1, 2020, as well as urging that indoor and outdoor public gatherings be cancelled, postponed, or rescheduled, to the extent possible, or limited so as not to exceed one hundred (100) people; and

WHEREAS, on March 16, 2020, based on updated information and recommendations from the CDC, the President of the United States and the White House Coronavirus Task Force issued new guidance—titled, "The President's Coronavirus Guidelines for America: 15 Days to Slow the Spread of Coronavirus (COVID-19)"—to help protect Americans during the global COVID-19 outbreak; and

WHEREAS, the President's Coronavirus Guidelines for America recommend, *inter alia*, that the American people "avoid social gatherings in groups of more than 10 people" and "[a]void eating or drinking at bars, restaurants, and food courts—use drive-thru, pickup, or delivery options"; and

WHEREAS, COVID-19 represents an evolving public health threat, which requires that the State of South Carolina continue to take all necessary and appropriate actions in proactively preparing for and promptly responding to the threat posed by COVID-19; and

WHEREAS, section 1-3-430 of the South Carolina Code of Laws, as amended, provides that when a state of emergency has been declared, the undersigned "may further, cope with such threats and danger, order and direct any person or group of persons to do any act which would in his opinion prevent or minimize danger to life, limb or property, or prevent a breach of the peace; and he may order any person or group of persons to refrain from doing any act or thing which would, in his opinion, endanger life, limb or property, or cause, or tend to cause, a breach of the peace, or endanger the peace and good order of the State or any section or community thereof, and he shall have full power by use of all appropriate available means to enforce such order or proclamation"; and

WHEREAS, in accordance with section 25-1-440 of the South Carolina Code of Laws, as amended, when an emergency has been declared, the undersigned is "responsible for the safety, security, and welfare of the State and is empowered with [certain] additional authority to adequately discharge this responsibility," to include issuing, amending, and rescinding "emergency proclamations and regulations," which shall "have the force and effect of law as long as the emergency exists," and "suspend[ing] provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency"; and

WHEREAS, in addition to the foregoing, pursuant to section 25-1-440 of the South Carolina Code of Laws, the undersigned is authorized during a declared emergency to "transfer the direction, personnel, or functions of state departments, agencies, and commissions, or units thereof, for purposes of facilitating or performing emergency services as necessary or desirable," and "compel performance by elected and appointed state, county, and municipal officials and employees of the emergency duties and functions assigned them in the State Emergency Plan or by Executive Order"; and

WHEREAS, as the elected Chief Executive of the State, the undersigned is further authorized, pursuant to section 25-1-440(7) of the South Carolina Code of Laws, to "direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is considered necessary for the preservation of life or other emergency mitigation, response, or recovery; to prescribe routes, modes of transportation, and destination in connection with evacuation; and to control ingress and egress at an emergency area, the movement of persons within the area, and the occupancy of premises therein"; and

WHEREAS, in accordance with section 16-7-10(A) of the South Carolina Code of Laws, as amended, "[i]n any area designated by the Governor in his proclamation that a state of emergency exists, and during the duration of the proclamation, it is unlawful for a person to: violate

a provision in the proclamation including, but not limited to, any curfew set forth by the proclamation; congregate, unless authorized or in their homes, in groups of three or more and to refuse to disperse upon order of a law enforcement officer; or wilfully fail or refuse to comply with any lawful order or direction of any law enforcement officer"; and

WHEREAS, for the aforementioned and other reasons, the undersigned has determined that the evolving public health threat posed by COVID-19 requires additional proactive action by the State of South Carolina and other extraordinary measures deemed necessary to cope with the existing or anticipated situation.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby order and direct as follows:

Section 1. I hereby direct the continued execution of the South Carolina Emergency Operations Plan and the utilization of all available resources of state government as reasonably necessary to address the current State of Emergency.

Section 2. I hereby direct DHEC to utilize and exercise any and all emergency powers, as set forth in the Emergency Health Powers Act, codified as amended in Title 44, Chapter 4 of the South Carolina Code of Laws, deemed necessary to promptly and effectively address the current public health emergency. In accordance with section 44-4-500 of the South Carolina Code of Laws, as amended, DHEC shall continue to "use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment."

Section 3. I hereby authorize and direct any agency within the undersigned's Cabinet or any other department within the Executive Branch, as defined by section 1-30-10 of the South Carolina Code of Laws, as amended, through its respective director or secretary, to waive or "suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency," in accordance with section 25-1-440 of the South Carolina Code of Laws and other applicable law.

Section 4. Pursuant to the aforementioned authorities and other applicable law, as well as the following specific provisions, I hereby order and direct that any and all restaurants or other food-service establishments (collectively, "Restaurants"), as set forth below, which prepare, produce, or otherwise offer or sell food or beverages of any kind for on-premises consumption in the State of South Carolina, shall suspend services for, and may not permit, on-premises or dine-in consumption, beginning Wednesday, March 18, 2020, and through Tuesday, March 31, 2020. Notwithstanding the foregoing directive and prohibition, I hereby authorize, permit, and encourage Restaurants to prepare, produce, or otherwise offer or sell food or beverages for off-premises consumption to the extent currently authorized, permitted, or otherwise allowed by law, whether via delivery, carry-out or drive-thru distribution, curbside pick-up, or other alternate means.

For purposes of this Section, Restaurants are defined as "retail food establishment[s]," pursuant to citation 1-201.10(B)(106) of Regulation 61-25 of the South Carolina Code of

Regulations, licensed or permitted by DHEC in accordance with section 44-1-140 of the South Carolina Code of Laws, as amended, or other applicable law, with the exception of "independent living food service operations" or "licensed healthcare facilities," which are expressly excluded from the definition of Restaurants. This Section does not apply to grocery stores, pharmacies, convenience stores, gas stations, or charitable food distribution sites to the extent that such businesses, entities, or operations prepare, produce, or otherwise offer, sell, or distribute prepared food. However, on-premises, sit-down food or beverage service within these facilities is prohibited. This Section does not direct the closure of retail beverage venues that currently provide for the sale of alcoholic beverages for off-site consumption and does not require the closure of production operations or wholesale distribution at breweries, wineries, or distilleries. Notwithstanding the foregoing, to the extent that Restaurants are licensed or permitted by the South Carolina Department of Revenue ("DOR") for the on-premises sale of "alcoholic liquors" or "alcoholic beverages," as defined by section 61-6-20(1)(a) of the South Carolina Code of Laws, as amended, DOR and the South Carolina Law Enforcement Division are authorized to administer the provisions of this Order, and enforce compliance with the same, as necessary and appropriate. Pursuant to section 1-23-370(c) of the South Carolina Code of Laws, as amended, "[i]f the agency finds that public health, safety[,] or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action."

Pursuant to sections 1-3-430 and 1-3-440 of the South Carolina Code of Laws, the undersigned is authorized to enforce the provisions of this Order, as well as Executive Order No. 2020-08, "by use of all appropriate available means," to include, *inter alia*, "[o]rder[ing] any and all law enforcement officers of the State or any of its subdivisions to do whatever may be deemed necessary to maintain peace and good order" and "order[ing] or direct[ing] any State, county[,] or city official to enforce the provisions of such proclamation in the courts of the State by injunction, mandamus, or other appropriate legal action." In addition to the foregoing authorities, noncompliance with this Section shall be further governed by the provisions of section 16-7-10(A) of the South Carolina Code of Laws.

Section 5. I hereby prohibit and direct the postponement, rescheduling, or cancellation, as applicable, of any organized event or public gathering scheduled to be hosted or held at any location or facility owned or operated by the State of South Carolina, or any political subdivision thereof, beginning Wednesday, March 18, 2020, and through Tuesday, March 31, 2020, if any such event or gathering could or would involve or require simultaneously convening fifty (50) or more persons in a single room, area, or other confined indoor or outdoor space. This Section does not apply to essential or emergency meetings of state or local government bodies or gatherings of government officials or employees or other personnel that may be required in connection with the performance of emergency or essential government functions. However, to the extent possible, state or local government bodies should utilize any available technology or other reasonable procedures to conduct such meetings and accommodate public participation via virtual or other remote or alternate means.

Section 6. I hereby direct the Adjutant General to initiate and oversee efforts to coordinate with, between, and among the South Carolina National Guard and hospitals or other healthcare providers, as necessary and applicable, regarding any actual or potential requirements for, or contingency plans related to, the mobilization, utilization, or acquisition of resources; the

creation, modification, or construction of mobile or temporary facilities or other critical infrastructure; or other anticipated or unanticipated matters related to the State's preparation for, and response to, the evolving public health threat posed by COVID-19. In accordance with section 25-1-1840 of the South Carolina Code of Laws, Executive Order No. 2020-08, and other applicable law, I further authorize and direct the Adjutant General to activate and utilize any and all South Carolina National Guard personnel and equipment he deems necessary and appropriate and to issue the requisite supplemental orders.

Section 7. This Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of South Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

This Order is effective immediately and, with the exception of Sections 4 and 5, shall remain in effect for a period of thirty (30) days unless otherwise modified, amended, or rescinded by subsequent Order. Further proclamations, orders, and directives deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued verbally by the undersigned and thereafter reduced to writing and published for dissemination within the succeeding 24-hour period.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 17th DAY OF MARCH, 2020.

HENRY MCMASTER
Governor

ATTEST:

MARK HAMMOND
Secretary of State