State of South Carolina

Executive Department

FILED

MAY 08 2020

Mark Hammond
SECRETARY OF STATE

Office of the Governor

EXECUTIVE ORDER NO. 2020-34

WHEREAS, the State of South Carolina has taken, and must continue to take, all necessary and appropriate actions in confronting the evolving public health threat presented by the 2019 Novel Coronavirus ("COVID-19"), while also simultaneously addressing and mitigating the significant economic and other impacts and burdens on individuals, families, and businesses and further facilitating economic recovery and revitalization in a safe, strategic, and incremental manner; and

WHEREAS, in proactively preparing for and promptly responding to the threat posed by COVID-19, the undersigned issued Executive Order No. 2020-08 on March 13, 2020, declaring a State of Emergency based on a determination that COVID-19 represented an imminent public health emergency for the State of South Carolina; and

WHEREAS, in addition to declaring an initial State of Emergency on March 13, 2020, the undersigned has issued various Executive Orders initiating and directing further extraordinary measures to address the significant public health, economic, and other impacts associated with COVID-19, certain provisions of which have been extended by subsequent and distinct emergency declarations set forth in Executive Order Nos. 2020-15, 2020-23, and 2020-29; and

WHEREAS, on March 16, 2020, based on updated information and recommendations from the Centers for Disease Control and Prevention ("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 "[w]ork or engage in schooling from home whenever possible"; "[a]void social gatherings in groups of more than 10 people"; "[a]void eating or drinking at bars, restaurants, and food courts—use drive-thru, pickup, or delivery options"; and "[a]void discretionary travel, shopping trips, and social visits"; and

WHEREAS, on March 17, 2020, based on updated information and recommendations from the CDC, the President of the United States, and the White House Coronavirus Task Force, the undersigned issued Executive Order No. 2020-10, directing additional emergency measures in response to the threat posed by COVID-19, to include temporarily prohibiting restaurants from providing certain food services for on-premises consumption; and

WHEREAS, on March 21, 2020, the undersigned issued Executive Order No. 2020-12, initiating additional actions to provide regulatory relief to facilitate effective "social distancing" practices and to mitigate the significant economic impacts associated with COVID-19 on individuals and businesses throughout the State, particularly restaurants and other food-service establishments; and

WHEREAS, on March 29, 2020, the President of the United States extended and expanded the provisions of his Coronavirus Guidelines for America until April 30, 2020, based on the ongoing nature and evolving scope of the global COVID-19 pandemic; and

WHEREAS, on March 30, 2020, the undersigned issued Executive Order No. 2020-16, directing that any and all public beach access points and public piers, docks, wharfs, boat ramps, and boat landings that provide public access to the public waters of this State shall be closed to public access for recreational purposes for the duration of the State of Emergency, as well as implementing certain restrictions on boating activities; and

WHEREAS, on April 6, 2020, the undersigned issued Executive Order No. 2020-21, directing, *inter alia*, that effective Tuesday, April 7, 2020, at 5:00 p.m., any and all residents and visitors of the State of South Carolina are required to limit social interaction, practice "social distancing" in accordance with CDC guidance, and take every possible precaution to avoid potential exposure to, and to slow the spread of, COVID-19, and shall limit their movements outside of their Residence, except for purposes of engaging in Essential Business, Essential Activities, or Critical Infrastructure Operations, as such terms are further defined therein; and

WHEREAS, on April 16, 2020, the President of the United States issued new Guidelines on Opening Up America Again, which contemplate individual States reopening in phases using a deliberate, data-driven approach tailored to address the situation in each State; and

WHEREAS, on April 16, 2020, the undersigned issued Executive Order No. 2020-25, modifying, *inter alia*, certain emergency restrictions related to the public waters of the State to facilitate authorized outdoor exercise and recreational activities in accordance with Section 1 of Executive Order No. 2020-21 (Home or Work Order); and

WHEREAS, on April 20, 2020, based on the latest data from the South Carolina Department of Health and Environmental Control ("DHEC"), the undersigned issued Executive Order No. 2020-28, amending, *inter alia*, certain provisions of Executive Order Nos. 2020-18 and 2020-21, as extended by Executive Order No. 2020-23, to initiate specific modifications to prior "non-essential" business closures so as to begin the process of safely, strategically, and incrementally reopening businesses and facilitating economic recovery and revitalization; and

WHEREAS, on April 27, 2020, the undersigned issued Executive Order No. 2020-29, declaring an additional, distinct State of Emergency—based on recent developments, new facts, changing conditions, and the previously unforeseen occurrence of a combination of extraordinary circumstances, to include the continued spread of COVID-19 and the significant economic consequences for individuals and businesses in this State—and implementing additional extraordinary measures to address the same, while also extending provisions of certain of the aforementioned and other Orders for the duration of the State of Emergency, unless otherwise modified, amended, or rescinded; and

WHEREAS, on May 3, 2020, the undersigned issued Executive Order No. 2020-31, modifying Section 1 of Executive Order No. 2020-21 (Home or Work Order), as well as amending the provisions of Section 4 of Executive Order No. 2020-10, as extended by Executive Order No. 2020-29, so as to authorize Restaurants to provide outdoor customer dining services, effective Monday, May 4, 2020, at 12:01 a.m., in addition to previously authorized services for off-premises consumption; and

WHEREAS, the COVID-19 pandemic 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 ongoing emergency, while also attempting to mitigate the significant economic and other impacts and burdens on individuals, families, and businesses and providing appropriate flexibility and relief to facilitate the same; 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

WHEREAS, the undersigned is further authorized, pursuant to section 25-1-440 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, it is axiomatic that "[t]he health, welfare, and safety of the lives and property of the people are beyond question matters of public concern, and reasonable regulations and laws designed to preserve and protect the same are clearly contained in the police power inherent in the sovereign," 1980 S.C. Op. Att'y Gen. 142 (Sept. 5, 1980); and

WHEREAS, the State of South Carolina must remain flexible to account for the evolving nature and scope of the public health emergency posed by COVID-19, while also simultaneously continuing the process of safely, strategically, and incrementally reopening businesses and facilitating economic recovery and revitalization; and

WHEREAS, for the aforementioned and other reasons, and based on the latest data from DHEC and the CDC, the undersigned has determined that it is necessary and appropriate to revisit and modify certain terms and provisions of prior Orders as part of the ongoing process of facilitating economic recovery and revitalization in a safe, strategic, and incremental manner, while also further encouraging effective "social distancing" practices and implementing additional proactive measures to provide for and ensure the health, safety, security, and welfare of the people of this State.

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. Authorization of Limited Indoor Dining Services

A. I hereby modify and amend the provisions of Section 4 of Executive Order No. 2020-10, as extended by Section 1(H) of Executive Order No. 2020-29 and amended by Section 2 of Executive Order No. 2020-31, so as to authorize Restaurants, as defined therein, to provide services for limited indoor, on-premises customer dining, effective Monday, May 11, 2020, at 12:01 a.m., in addition to previously authorized services for off-premises consumption and outdoor customer dining.

B. Restaurants that elect to provide limited indoor, on-premises customer dining services, as authorized herein, should consider and incorporate industry guidelines regarding the same, such as those prepared and published by the South Carolina Restaurant and Lodging Association, in addition to undertaking and implementing all reasonable steps to comply with any applicable sanitation guidelines promulgated by the CDC, DHEC, or any other state or federal public health officials.

C. I hereby authorize DHEC to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Section or to otherwise provide clarification regarding the same, through appropriate means, without the need for further Orders.

D. Except as expressly provided herein, this Section shall not be construed to modify, amend, or otherwise alter the provisions of any prior or future Orders issued by the undersigned in connection with the State of Emergency and does not repeal, by implication or otherwise, the terms and provisions of, *inter alia*, Executive Order No. 2020-12, as extended by Executive Order No. 2020-29, or the remaining terms and provisions of Executive Order No. 2020-10, as extended by Executive Order No. 2020-29 and amended by Executive Order No. 2020-31. The aforementioned Orders shall remain in effect for the duration of the State of Emergency unless and until otherwise modified, amended, or rescinded by subsequent Order.

Section 2. Rescission of Boating Restrictions

A. I hereby modify and amend the provisions of Section 1(C) of Executive Order No. 2020-16, as amended by Section 1(A) of Executive Order No. 2020-25 and extended by Section 1(H) of Executive Order No. 2020-29, so as to rescind the restrictions on the beaching or rafting of boats, whether on a sandbar, lakeshore, riverbank, or island, and the requirement that vessels must remain underway at all times unless exigent circumstances exist.

B. In accordance with Section 1 of Executive Order No. 2020-21, as extended by Executive Order No. 2020-29 and amended by Executive Order No. 2020-31, any and all residents and visitors of the State of South Carolina are urged to, *inter alia*, limit social interaction, practice "social distancing" in accordance with CDC guidance, and take every possible precaution to avoid potential exposure to, and to slow the spread of, COVID-19.

C. Notwithstanding the foregoing, individuals are still subject to the provisions of prior and future Orders issued by the undersigned in connection with the State of Emergency, to include Executive Order No. 2020-13, as extended by Executive Order No. 2020-29, which expressly authorizes any and all law enforcement officers of the State, or any political subdivision thereof, to prohibit or disperse any congregation or gathering of people, unless authorized or in their homes, in groups of three (3) or more people, if any such congregation or gathering is deemed to pose, or could pose, a threat to public health.

D. I further expressly authorize the South Carolina Department of Natural Resources ("DNR") to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Section or to otherwise to provide clarification regarding the same, through appropriate means, without the need for further Orders.

Section 3. General Provisions

A. 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.

B. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Order is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this Order, as the undersigned would have issued this Order, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

C. If or to the extent that any political subdivision of this State seeks to adopt or enforce a local ordinance, rule, regulation, or other restriction that conflicts with this Order, this Order shall supersede and preempt any such local ordinance, rule, regulation, or other restriction.

D. This Order is effective immediately. 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 orally 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 8th DAY OF MAY, 2020.

HENRY MCMASTER
Governor

ATTEST:

MARK HAMMOND
Secretary of State