

EXECUTIVE ORDER NO.

2021-28

WHEREAS, on July 12, 2021, a Grand Jury convened in Lexington County returned two Indictments charging Jerald E. Sanders, Mayor of the Town of Swansea, with one count of Misconduct in Office, in violation of the Common Law of South Carolina, and one count of Embezzlement of Public Funds (less than \$10,000), in violation of section 16-13-210 of the South Carolina Code of Laws, as amended; and

WHEREAS, Jerald E. Sanders, as Mayor of the Town of Swansea, is an officer of the State or its political subdivisions; and

WHEREAS, article VI, section 8 of the South Carolina Constitution provides, *inter alia*, that upon indictment by a grand jury of any officer of the State or its political subdivisions who has the custody of public or trust funds with embezzlement or the appropriation of public or trust funds to private use, “the Governor shall suspend such officer and appoint one in his stead, until he shall have been acquitted,” and “[i]n case of conviction, the position shall be declared vacant and the vacancy filled as may be provided by law”; and

WHEREAS, article VI, section 8 of the South Carolina Constitution further provides, in relevant part, that “[a]ny officer of the State or its political subdivisions . . . who has been indicted by a grand jury for a crime involving moral turpitude . . . may be suspended by the Governor until he shall have been acquitted” and “[i]n case of conviction the office shall be declared vacant and the vacancy filled as may be provided by law”; and

WHEREAS, under South Carolina law, moral turpitude “implies something immoral in itself,” *State v. Horton*, 271 S.C. 413, 414, 248 S.E.2d 263, 263 (1978), and “involves an act of baseness, vileness, or depravity in the social duties which a man owes to his fellow man or society in general, contrary to the accepted and customary rule of right and duty between man and man,” *State v. Major*, 301 S.C. 181, 186, 391 S.E.2d 235, 238 (1990); and

WHEREAS, in addition to the foregoing authorities, section 8-1-110 of the South Carolina Code of Laws, as amended, requires that upon indictment of any officer who has the custody of public or trust funds on charges of embezzlement or the appropriation of public or trust funds to private use, “the Governor shall suspend such officer and appoint one in his stead until he shall

have been acquitted by the verdict of a jury” and “[i]n case of conviction the office shall be declared vacant and the vacancy filled as may be provided by law”; and

WHEREAS, the aforementioned Indictments include one or more counts charging Jerald E. Sanders with “embezzlement or the appropriation of public or trust funds to private use,” “a crime involving moral turpitude,” or both, for purposes of article VI, section 8 of the South Carolina Constitution, *see Baddourah v. McMaster*, 433 S.C. 89, 114, 856 S.E.2d 561, 574 (2021); *State v. Gregory*, 191 S.C. 212, 4 S.E.2d 1, 3 (1939); *In re Lee*, 313 S.C. 142, 143–44, 437 S.E.2d 85, 86 (1993); and

WHEREAS, in accordance with article VI, section 8 of the South Carolina Constitution and section 8-1-110 of the South Carolina Code of Laws, the undersigned is authorized to suspend Jerald E. Sanders from office as Mayor of the Town of Swansea and designate or appoint an individual to serve in his stead until such time as he shall be acquitted or convicted or until a successor is elected and qualifies as provided by law, whichever event occurs first; and

WHEREAS, pursuant to section 5-7-190 of the South Carolina Code of Laws, as amended, “[t]he mayor pro tempore shall act as mayor during the absence or disability of the mayor.”

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 suspend Jerald E. Sanders from office as Mayor of the Town of Swansea until such time as he shall be formally acquitted or convicted or until a successor is appointed or elected and qualifies as provided by law, whichever event occurs first. Accordingly, pursuant to article VI, section 8 of the South Carolina Constitution and section 8-1-110 of the South Carolina Code of Laws, I hereby designate the Mayor Pro Tempore of the Town of Swansea to serve as Mayor of the Town of Swansea until such time as Jerald E. Sanders shall be formally acquitted or convicted or until a successor is appointed or elected and qualifies as provided by law, whichever event occurs first. This action in no manner addresses the guilt or innocence of Jerald E. Sanders and shall not be construed as an expression of any opinion on such question. This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE
GREAT SEAL OF THE STATE OF
SOUTH CAROLINA, THIS 12th DAY OF
JULY, 2021.**

HENRY MCMASTER
Governor

ATTEST:

MARK HAMMOND
Secretary of State