RECEIVED
OFFICE OF
CITY CLERK

2020 MAY 10 PM 9:17

Executive Order
Office of the Mayor
City of Atlanta

EXECUTIVE ORDER NUMBER 2020-78
BY THE MAYOR

THAT IN ACCORDANCE WITH SECTION 2-181(A) OF THE CITY OF ATLANTA CODE OF ORDINANCES; DECLARING THERE TO BE AN EMERGENCY IN EXISTENCE WITHIN THE TERRITORIAL JURISDICTIONAL LIMITS OF THE CITY OF ATLANTA; AND EXERCISING MY EMERGENCY POWERS IN ACCORDANCE WITH SECTION 2-181(B) OF THE CITY OF ATLANTA CODE OF ORDINANCES TO ENSURE THE ENFORCEMENT OF THE GOVERNOR'S EXECUTIVE ORDER 04.02.20.01, EXECUTIVE ORDER 04.20.20.01, AND EXECUTIVE ORDER 04.23.20.02; PROHIBITING ALL GATHERINGS OF ANY NUMBER OF INDIVIDUALS ON CITY OF ATLANTA PROPERTY; AND FOR OTHER PURPOSES.

WHEREAS, pursuant to Section 2-181(a) of the Code of the City of Atlanta ("City"), the Mayor, as Chief executive of the City, shall have the emergency power to declare an emergency to exist when, in the mayor's opinion, there is an extreme likelihood of destruction of life or property due to an unusual condition; and

WHEREAS, pursuant to Section 2-181(b) of the Code of the City of Atlanta, the Mayor, as chief executive of the City, shall have the right to exercise any or all of the following options after such declaration of emergency:

(1) To use employees of the city other than employees of the department of police to assist in the safety and preservation of life, limb and property of the citizenry of the city.
(2) To close streets and sidewalks and to delineate areas within the city wherein an emergency exists.
(3) To impose emergency curfew regulations.
(4) To close business establishments within the affected area.
(5) To close any and all city-owned buildings and other facilities to the use of the general public.
(6) To do any and all acts necessary and incidental to the preservation of life, limb and property of the citizenry of the city; and

WHEREAS, no emergency power as set forth in this section may be effective for more than 72 hours after the declaration of an emergency; and

WHEREAS, pursuant to Section 2-182 of the Code of the City of Atlanta, the Mayor may issue executive orders which apply to events of short duration and which expire at the next meeting of the City Council subsequent thereof unless ratified by a majority vote of the members present and voting; and

WHEREAS, like much of the world the United States, the State of Georgia, and the City of Atlanta are currently responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2" and the disease it causes named "coronavirus disease 2019" (abbreviated "COVID-19"); and

WHEREAS, on March 11, 2020 the World Health Organization declared the COVID-19 outbreak a pandemic; and

WHEREAS, on March 13, 2020 the President of the United States announced a national emergency in response to the COVID-19 pandemic, which included two emergency declarations: one under the National Emergencies Act and one under the Stafford Disaster Relief and Emergency Assistance Act; and

WHEREAS, on March 14, 2020 Governor Brian Kemp signed a public health state of emergency to address the COVID-19 pandemic through assisting health and emergency management officials across Georgia by deploying all available resources for the mitigation and treatment of COVID-19; and

WHEREAS, due to the COVID-19 pandemic, on March 16, I declared there to be an emergency in existence within the City of Atlanta pursuant to Section 2-181(a) of the City of Atlanta Code of Ordinances; and

WHEREAS, the Center for Disease Control ("CDC") has issued guidance on the emerging and rapidly evolving situation of the COVID-19 pandemic, including how to protect oneself from this illness; and

WHEREAS, social distancing is recommended by the CDC to prevent the continued spreading of this illness in the community; and

WHEREAS, on April 2, 2020, Governor Brian Kemp signed an Executive Order to Ensure a Safe and Healthy Georgia (Governor's Executive Order 04.02.20.01) to address the COVID-19 pandemic by implementing temporary actions necessary and appropriate to protect the health, safety, and welfare of Georgia's residents and visitors, effective beginning at 6:00 P.M. on Friday, April 3, 2020 and expiring at 11:59 P.M. on Monday, April 13, 2020; and

WHEREAS, on April 8, 2020 Governor Kemp signed an Executive Order 04.08.20.02 extending the Governor's Executive Order 04.02.20.01, such that it shall now expire on Thursday April 30, 2020 at 11:59 P.M.; and

WHEREAS, in accordance with the Governor's Executive Order 04.02.20.01, all residents and visitors of the State of Georgia, including the City of Atlanta are required to shelter in place within their homes or places of residence except a provided therein; and

WHEREAS, in accordance therewith, during the pendency of the term of Governor's Executive Order 04.02.20.01, the City may enter emergency orders which are not in conflict, and do not vary or differ from the Governor's Executive Order, and which are designed to enforce compliance therewith; and

WHEREAS, the Governor's Executive Order 04.02.20.01 expressly prohibits municipalities from impeding the operation of any Critical Infrastructure as defined in the Governor's Order; and

WHEREAS, the Governor's Executive Order 04.02.20.01 prohibits municipalities from allowing more than 10 persons to be gathered at a single location if such gatherings require persons to stand or to be seated within six feet of any other person, except this requirement shall not apply to cohabitating persons outside of their homes, family units or roommates residing together in private homes, or any entities defined therein as "Critical Infrastructure"; and

WHEREAS, pursuant to the Governor's Executive Order 04.02.20.01, all gyms, fitness centers, bowling alleys, theaters, live performance venues, operators of amusement rides, body art studios, beauty shops, beauty salons, barber shops, schools of cosmetology, schools of hair design, schools of esthetics, schools of nail care, and schools of barbering, estheticians, hair designers, massage therapists, and any premises at which a retailer to sell alcoholic beverages derives 75 percent or more total annual gross revenue from the sale of alcoholic beverages for consumption on the premises, must cease in-person operations and must close to the public; and

WHEREAS, pursuant to the Governor's Executive Order 04.02.20.01, restaurants and private social clubs must cease providing dine-in services, but take-out, curbside pick-up, and delivery are permitted; and

WHEREAS, on April 20, 2020 Governor Kemp signed Executive Order 04.20.20.01 pursuant to which gyms, fitness centers, bowling alleys, body art studios, beauty salons, barber shops, schools of cosmetology, schools of hair design, schools of esthetics, schools of nail care, and schools of barbering, estheticians, hair designers, massage therapists, were permitted to resume operation effective April 24, 2020, employing strict social distancing guidelines; and

WHEREAS, on April 23, 2020 Governor Kemp signed an Executive Order 04.23.20.02 which, effective May 1, 2020, lifts the shelter in place order for most residents and visitors of the State of Georgia, including the City of Atlanta, leaving it in place only for persons who are considered at higher risk for severe illness resulting from a COVID-19 infection; and

WHEREAS, the Governor's Executive Order 04.23.20.02 is scheduled to remain effective through May 13, 2020; and

WHEREAS, pursuant to the Governor's Executive Order 04.23.20.02, restaurants are permitted to resume dine-in services effective April 27, 2020 while employing certain social distancing measures as detailed in the order; and

WHEREAS, pursuant to the Governor's Executive Order 04.23.20.02, during the pendency thereof, the City may enter emergency orders which are not in conflict, and do not vary or differ from the Governor's Executive Order, and which are designed to enforce compliance therewith; and

WHEREAS, the Governor's Executive Order 04.02.20.01 requirement concerning gatherings, reiterated in Executive Order 04.23.20.02, is a law of prohibition against the gathering of groups of more than 10 persons, not one of permission concerning gatherings of less than 10 persons, and thus, as applied to municipal governments does not conflict, vary, or differ with any municipal prohibition against smaller groups on municipal property[1]; and

---

[1] Willis v. City of Atlanta, 285 Ga. 775, 776, 684 S.E.2d 271, 273 (2009).

WHEREAS, on March 23, 2020, effective midnight Tuesday, March 24th I declared there to be the existence of any emergency within the City of Atlanta and issued a Stay at Home Order; and

WHEREAS, in accordance with the authority granted to City to enter emergency orders which are not in conflict and do not vary or differ from the Governor's Executive Orders and which are designed to enforce compliance therewith, I am hereby declaring there to be the existence of an emergency within the City of Atlanta pursuant to Section 2-181(a) of the City of Atlanta Code of Ordinances; and

WHEREAS, pursuant this declaration, compliance with the Governor's Executive Orders shall be enforced, and all non-essential gatherings of any number of individuals shall be prohibited on City of Atlanta property; and

WHEREAS, this Order is designed to enforce compliance with the Governor's Executive Orders during the pendency thereof, and to take action which does not conflict, and does not vary or differ therefrom; and

WHEREAS, all provisions of this Order should be interpreted to effectuate this intent.

NOW THEREFORE, I, KEISHA LANCE BOTTOMS, AS MAYOR OF THE CITY OF ATLANTA, NOW HEREBY AUTHORIZE, ORDER AND DIRECT AS FOLLOWS:

SECTION 1. It is my opinion that there exists an extreme likelihood of destruction of life or property within the territorial jurisdictional limits of the City of Atlanta due to the unusual condition of the COVID-19 pandemic, and in accordance with Section 2-181(a) of the City of Atlanta Code of Ordinances, I hereby declare there to be an emergency in existence within the territorial jurisdictional limits of the City of Atlanta.

SECTION 2. In accordance with this emergency declaration, I am exercising my emergency powers in accordance with Section 2-181(b) of the City of Atlanta Code of Ordinances to ensure the enforcement of the Governor's Executive Order 04.02.20.01 and Executive Order 04.20.20.01.

SECTION 3.

(a) In accordance with the Governor's Executive Order 04.02.20.01, until May 1, 2020, all persons within the City of Atlanta are required to shelter in place within their homes of places of residence, meaning remaining their place of residence and taking every possible precaution to limit social interaction to prevent the spread or infection of COVID-19, except as provided in the Governor's Executive Order 04.02.20.01 and Executive Order 04.20.20.01, (collectively Governor's Executive Orders).

(b) (i) In accordance with the Governor's Executive Orders, neither the City of Atlanta or any business, establishment, corporation, non-profit corporation, organization may allow more than ten (10) persons to be gathered at a single location if such gathering requires persons to stand or be seated within six (6) feet of any person.

(ii) All gatherings of any number of individuals shall be prohibited on City of Atlanta property; and

(iii) This subsection shall not apply to cohabitating persons outside of their homes, family units or roommates residing together in private homes, entities defined as "Critical Infrastructure" by the Governor's Executive Orders, or entities permitted to operate in accordance with the Governor's Executive Orders.

SECTION 4. In accordance with the Governor's Executive Orders all businesses, establishments, corporations, non-profit corporations, or organizations that are not Critical Infrastructure as defined in the Governor's Executive Orders may only engage in Minimum Basic Operations as defined therein.

SECTION 5. Nothing in this Order shall impede the operation of any businesses, establishments, corporations, non-profit corporations, and organizations defined as critical infrastructure in the Governor's Executive Orders, or any businesses permitted to operate in accordance with the Governor's Executive Orders.

SECTION 6. In accordance with the Governor's Executive Orders, all public swimming pools, performance venues, operators of amusement rides as defined in OCGA § 25-25-52, and businesses which possess a license to operate or otherwise meet the definition of a "bar" as defined by OCGA § 3-1-2(2.1) [any premises at which a retailer to sell alcoholic beverages derives 75 percent or more total annual gross revenue from the sale of alcoholic beverages for consumption on the premises], must cease in-person operations and must close to the public.

SECTION 7. If one or more of the provisions contained in the Order shall be held to be invalid, in violation of the Constitution of the United States, the Georgia Constitution, in violation of Georgia law, in violation of the Governor's Executive Orders, or unenforceable in any respect, such invalidity, violation, or unenforceability shall not affect any other provisions herein, but in such case, this Order shall be construed as if such invalid, illegal, or unenforceable provision had never been contained with this Order.

This 10th day of May, 2020.

Keisha Lance Bottoms, Mayor

ATTESTED:

Municipal Clerk

Foris Webb, III
Municipal Clerk