Executive Order
Office of the Mayor
City of Atlanta

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EXECUTIVE ORDER NUMBER 2020-121
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 JURISDICTIONAL LIMITS OF THE CITY OF ATLANTA DUE TO THE ONGOING COVID-19 PANDEMIC; 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; PROHIBITING GATHERINGS OF ANY NUMBER OF INDIVIDUALS ON CITY OF ATLANTA PROPERTY; REQUIRING ALL PERSONS WITHIN THE JURISDICTION OF THE CITY OF ATLANTA TO WEAR A MASK OR A CLOTH FACE COVERING OVER THE NOSE AND MOUTH; AND FOR OTHER PURPOSES.

WHEREAS, pursuant to its police power, the City of Atlanta may enact ordinances and take action to protect the health, safety, and general welfare of the public; and

WHEREAS, pursuant to that power, and specifically, 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, the CDC also advises that the use of masks or cloth face coverings will slow the spread of COVID-19; and

WHEREAS, in a July 26, 2020 federal report prepared for the White House Coronavirus Task Force and for distribution to state leaders, which was obtained and published by the New York Times, it is suggested that many states should revert to more stringent protective measures, such as limiting social gatherings to 10 people or fewer, closing bars and gyms and asking residents to where masks at all times; and

WHEREAS, this document asserts that 21 states including Georgia are in the "red zone" for COVID-19 cases, meaning they had more than 100 new cases per 100,000 people last week; and several states, including Georgia are in the "red zone" for test positivity, meaning more than 10 percent of diagnostic test results came back positive; and

WHEREAS, this document specifically recommends that Georgia, in the red zone for both cases and test positivity, "Mandate use of masks in all current and evolving hot spots – optimally a statewide mandate;" 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; and

WHEREAS, subsequently, Governor Kemp has issued a series of Executive Orders which amend and revise the temporary action necessary and appropriate to protect the health, safety, and welfare of Georgia's residents and visitors; and

WHEREAS, on July 15, 2020, Governor Kemp issued Executive Order 07.15.20.01, (Governor's July Executive Order) which is the latest direction from the Governor concerning temporary actions necessary and appropriate to address the COVID-19 pandemic; and

WHEREAS, the Governor's July Executive Order provides in pertinent part as follows:

> all persons within the state are required to practice social distancing as defined in the order and are prohibited from gathering in groups of more than 50 persons if to be present, persons are required to stand or be seated within 6 feet of any other person;
>
> all persons within the state are strongly encouraged to wear face coverings as practicable while outside their homes or place of residence, except when eating, drinking, or exercising outdoors;
>
> all persons within the state who meet certain specified criteria for higher risk of severe illness as defined by the CDC are required to shelter in place within their homes or places of residence as provided in the order; and

WHEREAS, in accordance therewith, and during the pendency of the term of the Governor's July Executive Order, the City is empowered to make, amend and rescind such orders, rules, and regulations as may be necessary for emergency management purposes and to supplement the carrying out of the Governor's July Executive Order, but such orders, rules, and regulations shall not be inconsistent with the Governor's July Executive Order or any orders, rules, or regulations promulgated by the Governor or by any state agency exercising a power derived from the Public Health State of Emergency declaration; and

WHEREAS, the Governor's July Executive Order, asserts that orders, rules, and regulations that are promulgated by the City that are more or less restrictive than the terms of the Governor's July Executive Order shall be considered inconsistent with the Governor's July Executive Order; and

WHEREAS, the Governor's July Executive Order, asserts that any City law, order, ordinance, rule or regulation that requires a person to wear face coverings, masks, face shields, or any other Personal Protective Equipment while in places of public accommodation or on public property are suspended ***to the extent that they are more restrictive than the Governor's July Executive Order***; and

WHEREAS, assuming the Governor's assertion about what makes a local regulation inconsistent with the Governor's July Executive Order and assertion that he has the authority to suspend rules that protect the health, safety, and well-being of the public that are more restrictive than the Governor's Executive Order are correct, the City may nonetheless enter emergency orders, including those which require the wearing of masks or face coverings which are not inconsistent with that Order, and which are designed to enforce compliance therewith; and

WHEREAS, the Governor's July Executive Order generally prohibits municipalities from allowing more than 50 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; and

WHEREAS, the requirement concerning gatherings contained in the Governor's July Executive Order, is a direction of prohibition against the gathering of groups of more than 50 persons, not one of permission concerning gatherings of less than 50 persons; and thus, as applied to municipal governments does not conflict with any municipal prohibition against smaller groups on municipal property[1]; and

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

WHEREAS, the Governor's July executive Order does not contain a requirement or a prohibition concerning the use of masks or facial coverings, but instead encourages their use; and

WHEREAS, accordingly an action by the City to prohibit the use of masks or facial coverings would properly be inconsistent with the Governor's July Executive Order, while an action of the City to require such use would not be inconsistent; and

WHEREAS, wearing a face covering is important not only to protect oneself, but also to avoid unknowingly harming others, especially given that many people who go into public may have COVID-19 without knowing it because they have no symptoms; and

WHEREAS, requiring the use of masks or face coverings is a targeted response that can combat the threat to public health using the least restrictive means, and if people follow this requirement, more extreme measures may be avoided; and

WHEREAS, on June 29, 2020 Goldman Sachs economists released an analysis which concluded that a national mandate requiring the face coverings would boost their use by 15 percent and cut the daily rise in COVID-19 cases a full percentage point to 0.6 percent; and that reducing the spread of COVID-19 by just that small increment "could potentially substitute for lockdowns that would otherwise subtract nearly 5% from GDP", and could salvage roughly $1 trillion of economic activity; and

WHEREAS, in accordance with the City's police powers and the authority granted to the City to enter emergency orders which are not in conflict with 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 July Executive Order shall be enforced, and gatherings of any number of individuals shall be prohibited on City of Atlanta property; and

WHEREAS, additionally, pursuant to this declaration, all persons within the jurisdiction of the City of Atlanta shall wear a mask or a cloth face covering over the nose and mouth when inside a commercial entity or other building or space open to the public, or when in an outdoor public space, wherever it is not feasible to maintain appropriate social distancing from another person not in the same household provided specifically herein; and

WHEREAS, this Order is designed to enforce compliance with the Governor's July Executive Order during the pendency thereof, and to take action consistent therewith; 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 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 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 July Executive Order.

SECTION 3.

(a) In accordance with the Governor's July Executive Order, persons who meet criteria for higher risk of severe illness as set forth therein 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 therein.

(b) (1) In accordance with the Governor's July Executive Order, neither the City of Atlanta or any business, establishment, corporation, non-profit corporation, organization may allow more than 50 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; and

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

(3) This subsection shall not apply to cohabitating persons outside of their homes, family units or roommates residing together in private homes, (persons in the same households), or to any businesses or activities specifically governed by the Governor's July Executive Order.

SECTION 4.

(a) All persons within the jurisdiction of the City of Atlanta shall wear a mask or a cloth face covering over the nose and mouth when inside a commercial entity or other building or space open to the public, or when in an outdoor public space, wherever it is not feasible to maintain appropriate social distancing from another person not in the same household.

(b) The requirement contained in this Section shall not apply to the following:

(1) any person younger than ten (10) years of age;

(2) any person with a medical condition or disability that prevents the wearing or a mask or face covering;

(3) any person while the person is consuming food or drink, or is smoking;

(4) any person while the person is in a personal motor vehicle;

(5) any person obtaining a service that requires temporary removal of the mask or face covering for security surveillance, screening, or a need for specific access to the face, such as while visiting a bank or while obtaining a personal care service involving the face or head, but only to the extent necessary fort the temporary removal;

(6) any person while the person is in a swimming pool;

(7) any person who is voting, assisting a voter, serving as a poll watcher, or actively administering an election;

(8) any person while the person is speaking for a broadcast or to an audience.

SECTION 5. Nothing in this Order shall impede the operation of any businesses, establishments, corporations, non-profit corporations, and organizations as provided in the Governor's July Executive Order.

SECTION 6. 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 July Executive Order, 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 31st day of July 2020.

Keisha Lance Bottoms, Mayor

ATTESTED:

Municipal Clerk

Foris Webb, III
Municipal Clerk