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Executive Order
Office of the Mayor
City of Atlanta

EXECUTIVE ORDER NUMBER 2020-135
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 PERSONS WITHIN THE JURISDICTION OF THE CITY OF ATLANTA TO WEAR A MASK OR A CLOTH FACE COVERING; 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 August 8, 2020 federal report prepared for the White House Coronavirus Task Force and for distribution to state leaders, it is suggested that Georgia, among numerous other states with serious COVID-19 problems, 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 wear masks at all times; and

WHEREAS, this document asserts that numerous 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 observes that Georgia's red zone status for both new cases and test positivity rates means that "Current mitigation efforts are not having a sufficient impact and would strongly recommend a statewide mask 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 August 31, 2020, Governor Kemp issued Executive Order 08.31.20.02, (Governor's August 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 August 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 physically present at a single location if, to be present, persons are required to stand or be seated within six (6) ft of any other person
>
> 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, the Governor's August Executive Order provides additionally that municipalities, counties, and other governmental entities located in counties that have reached a defined Threshold Requirement may impose Local Option Face Covering Requirements in accordance with the Governor's August Executive Order; and

WHEREAS, the Governor's August Executive Order defines the "Threshold Requirement" as "the prevalence in a county of confirmed cases of COVID-19 over the previous fourteen (14) days is equal to or greater than one hundred (100) cases per one hundred thousand (100,000) people according to the Georgia Department of Public Health; and

WHEREAS, in accordance therewith, and during the pendency of the term of the Governor's August 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 August Executive Order, but such orders, rules, and regulations shall not be inconsistent with the Governor's August 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 August Executive Order generally prohibits municipalities from allowing more than 50 persons to be gathered at a single location if such gatherings implicitly 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 August 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

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, jurisdictions throughout the United States, including in the Southeast, that have imposed mask requirements have seen significant and sustained drops in COVID transmission; 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

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

WHEREAS, pursuant this declaration, compliance with the Governor's August 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, persons within the jurisdiction of the City of Atlanta shall wear a mask or a cloth face covering over the nose and mouth in accordance with the Governor's August Executive Order, and as provided specifically herein; and

WHEREAS, this Order is designed to enforce compliance with the Governor's August 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 August Executive Order.

SECTION 3.

(a) In accordance with the Governor's August 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 August 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 August Executive Order.

SECTION 4.

(a) All portions of the City are located in a county in which the prevalence of confirmed cases of COVID-19 over the previous fourteen (14) days is equal to or greater than one hundred (100) cases per one hundred thousand (100,000) people according to the Georgia Department of Public Health.

(b) For purposes of the Local Option Face Covering Requirement portion of this Order, the following terms are hereby defined as follows:

(1) *Entity* means any private business, establishment, corporation, non-profit corporation, or organization, including the curtilage thereof.

(2) *Facial covering or mask* means a device to cover the nose and mouth of a person and impedes the spread of saliva, respiratory droplets, or other fluids during speaking, coughing, sneezing or other intentional or involuntary action. Medical grade masks are not required; coverings may be fashioned as advised by the CDC and from other suitable fabrics. The mask must cover the mouth and nose of the wearer.

(3) *Polling place* means the room provided in each precinct for voting at a primary or election.

(4) *Public place* means any place other than a personal vehicle, residential property, or an entity including the curtilage thereof.

(c) Except as otherwise provided in this Order, all persons in an entity or a public place shall wear a facial covering or mask over the mouth and nose at all times where other physical distancing measure may be difficult to maintain from non-cohabitating persons.

(d) Facial coverings or masks are not required in the following circumstances:

(1) In personal vehicles or upon residential property;

(2) When a person is alone in enclosed spaces or only with other members of the same household;

(3) When the individual has a bona fide religious objection to wearing a facial covering or mask;

(4) While drinking or eating;

(5) When a licensed healthcare provider has determined that wearing a facial covering or mask causes or aggravates a health condition for the individual or when such

person has some other bona fide medical reason for not wearing a facial covering or mask;

(6) When wearing a facial covering or mask would prevent the receipt of personal services or performing work in the course of employment;

(7) When complying with the directions of a law enforcement officer or for the purposes of verifying a person's identity, such as when purchasing alcohol, tobacco, or prescription drugs or when engaging in a financial transaction;

(8) Children under the age of ten (10) years;

(9) When the individual cannot don or remove a face mask or face covering without undue assistance;

(10) At any polling place and no individual shall be denied ingress or egress to or from a polling place for failure to wear a facial covering or mask; and

(11) When outdoors and able to consistently maintain social distancing from anyone other than individuals with whom they cohabitate.

(e) (1) Every entity subject to this Order which does not consent to enforcement of this Order upon its property shall prominently post a clearly legible sign in two inch or larger font at all public entrances of such entity stating the following: "This location does not consent to enforcement of any local face covering requirement upon this property." Such entity shall also promptly notify the Atlanta Police Department of their refusal to consent to enforcement of this Local Option Face Covering Requirement by either emailing said notice to MaskOptOut@AtlantaGa.Gov or sending written notice to Atlanta Police Department 226 Peachtree St SW Atlanta, Ga. 30303 within 24 hours of the effective date of this Order.

(2) If an entity does not post the signage described and send the notice therein required in subparagraph (1) of this paragraph it shall be conclusively presumed to have consented to enforcement of this Order on its property and failures by individuals to wear facial coverings or masks as required by this Order shall be determined to be violations and enforced as contemplated in paragraph (f).

(f) Violations of this Section 4 may be enforced by a notice of Order violation issued by any police officer, code enforcement officer, or other authorized law enforcement official, as provided below:

(1) A person who fails to comply with paragraph (c) of Section 4 of this Order shall be first given a warning and an opportunity to put on a facial covering or mask, leave the entity, or demonstrate their compliance with one of the exceptions in paragraph (d) of Section 4.

(2) If the person violating this Order refuses or fails to comply with this Order after being given a warning pursuant to subparagraph (1) of this paragraph then such person may be subject to a civil penalty of not more than $25.00 on the first offense and not more than $50.00 on the second and any subsequent offenses.

(3) A notice of violation may be served by delivery into the hands of the suspected violator or by other reasonable process for serving notice of ordinance violations used by the City.

(4) Violations of this Order shall not be enforced against any entity and shall not be taken against any owner, director, officer, or agent of an entity solely because of the failure of their customers to comply with this Order.

(5) Notwithstanding the foregoing, every reasonable effort shall be made to bring an individual into voluntary compliance with the terms of this Order prior to issuance of any notice of violation, including providing complimentary masks, explaining the importance of wearing facial coverings during this pandemic, and issuing verbal and written warnings.

(g) In all locations where facial coverings or masks are not required to be worn pursuant to this Order, they are strongly encouraged to be worn.

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 August 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 August 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 5th day of September 2020.

Keisha Lance Bottoms, Mayor

ATTESTED:

Municipal Clerk

Foris Webb, III
Municipal Clerk