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An Administrative Order
Office of the Mayor
City of Atlanta

2020 APR 10 PM 7:28 Administrative Order No. 2020- 09

**OFFICE OF THE MAYOR
AN ADMINISTRATIVE ORDER**

AN ADMINISTRATIVE ORDER DIRECTING THE CHIEF OPERATING OFFICER TO COORDINATE WITH THE CHIEF OF THE ATLANTA POLICE DEPARTMENT TO DISSEMINATE DIRECTION THROUGHOUT THE ATLANTA POLICE DEPARTMENT THAT MEMBERS THEREOF SHALL REFRAIN FROM TAKING ANY ACTION TO ENFORCE THE GEORGIA MASK STATUTE, TO HELP ENSURE THAT INDIVIDUALS COMPLYING WITH THE CDC RECOMMENDATION MADE IN RESPONSE TO THE COVID-19 PANDEMIC, THAT PERSONS SHOULD WEAR CLOTH FACE COVERINGS IN PUBLIC SETTINGS WHERE OTHER SOCIAL DISTANCING MEASURES ARE DIFFICULT TO MAINTAIN, ARE ABLE TO DO SO WITHOUT FEAR OF CITATION OR ARREST FOR A VIOLATION OF THE GEORGIA MASK STATUTE, FOR A PERIOD NOT TO EXCEED (60) DAYS; AND FOR OTHER PURPOSES.

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 15, 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, on April 3, 2020 the CDC updated its recommendations to include a recommendation that persons should wear cloth face coverings in public settings where other social distancing measures are difficult to maintain such as at grocery stores and pharmacies, and especially in areas of significant community-based transmission; and

WHEREAS, pursuant to OCGA § 16-11-38 (the Georgia mask statute) it is a misdemeanor for a person to “wear[] a mask, hood, or device by which any portion of the face is so hidden, concealed, or covered as to conceal the identity of the wearer” while he is “upon any public way or public property¹”; and

WHEREAS, the Georgia mask statute includes exceptions for:

- (1) A person wearing a traditional holiday costume on the occasion of the holiday;
- (2) A person lawfully engaged in trade and employment or in a sporting activity where a mask is worn for the purpose of ensuring the physical safety of the wearer, or because of the nature of the occupation, trade, or profession, or sporting activity;
- (3) A person using a mask in a theatrical production including use in Mardi gras celebrations and masquerade balls; or
- (4) A person wearing a gas mask prescribed in emergency management drills and exercises or emergencies²;

and

WHEREAS, in addition to the statutory exceptions, the Georgia mask statute must be read in light of the limitations placed on it by the Georgia Supreme Court which has upheld the constitutionality of the Georgia mask statute where a mask wearer

- (1) intended to conceal his identity, and (2) either intended to threaten, intimidate, or provoke the apprehension of violence, or acted with reckless disregard for the consequences of his conduct ... with reasonable foresight that injury would occur;³ that is, with reasonable foresight that his conduct would threaten, intimidate, or cause the apprehension of violence⁴

WHEREAS, to help ensure that individuals complying with the CDC recommendation that persons should wear cloth face coverings in public settings where other social distancing measures

¹ OCGA § 16-11-38(a)

² OCGA § 16-11-38(b)

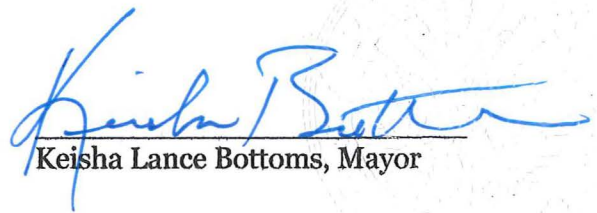
³ *Daniels v. State*, 264 Ga. 460, 464, 448 S.E.2d 185 (1994).

⁴ *Gates v. Khokhar*, 884 F.3d 1290, 1299–300 (11th Cir. 2018), cert. denied, 139 S. Ct. 807, 202 L. Ed. 2d 575 (2019).

are difficult to maintain are able to do so without fear of citation or arrest for a violation of the Georgia mask statute, I am hereby directing the Chief Operating Officer to coordinate with the Chief of the Atlanta Police Department to disseminate direction throughout the Atlanta Police Department that members thereof shall refrain from taking any action to enforce the Georgia mask statute in response to the COVID-19 pandemic, for a period not to exceed (60) days.

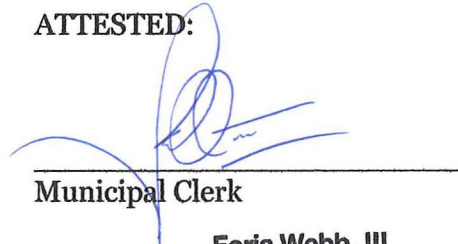
NOW, THEREFORE, BY THE POWER VESTED IN ME AS MAYOR OF THE CITY OF ATLANTA, pursuant to Section 3-104 of the City of Atlanta Charter and Section 2-182(4) of the City of Atlanta Code of Ordinances, it is hereby ordered that the Chief Operating Officer shall coordinate with the Chief of the Atlanta Police Department to disseminate direction throughout the Atlanta Police Department that members thereof shall refrain from taking any action to enforce the Georgia mask statute in response to the COVID-19 pandemic, for a period not to exceed (60) days.

SO ORDERED this 10th day of April, 2020.



Keisha Lance Bottoms, Mayor

ATTESTED:



Municipal Clerk

Foris Webb, III
Municipal Clerk