

## **RESOLUTION 2020-18 - SUBSTITUTE**

### **A RESOLUTION REGARDING CONTINUED EMERGENCY MANAGEMENT DURING THE PUBLIC HEALTH STATE OF EMERGENCY RELATED TO THE COVID-19 PANDEMIC**

**WHEREAS**, pursuant to its Charter and other laws of the State of Georgia, the City of Stone Mountain, Georgia (the “City”), has the power to adopt reasonable ordinances, resolutions and regulations for the protection and preservation of the public health, safety and welfare of its citizens; and

**WHEREAS**, O.C.G.A. § 38-3-28(a) provides that the City is authorized and empowered to make, amend, and rescind such orders, rules, and regulations as may be necessary for emergency management purposes, but not inconsistent with any orders, rules, or regulations promulgated by the Governor; and

**WHEREAS**, the 2019 novel coronavirus (“COVID-19”) is a respiratory illness, transmitted through person-to-person contact or by contact with surfaces contaminated with the virus and persons infected with COVID-19 may become symptomatic within two to fourteen days after exposure; and

**WHEREAS**, the World Health Organization has declared COVID-19 a worldwide pandemic as of March 11, 2020; and

**WHEREAS**, on March 13, 2020, President Donald Trump declared a national emergency in response to the outbreak of COVID-19; and

**WHEREAS**, on March 14, 2020, Governor Brian Kemp declared that a public health emergency exists in the State of Georgia due to the spread of COVID-19 within Georgia; and

**WHEREAS**, on August 31, 2020, Governor Kemp renewed the Public Health State of Emergency until October 10, 2020, by issuing Executive Order 08.31.20.01; and

**WHEREAS**, as of August 31, 2020, the Georgia Department of Public Health reports 270,471 confirmed COVID-19 cases throughout Georgia with 16,555 cases being reported from throughout DeKalb County; and

**WHEREAS**, as a densely populated, thriving community that renders civic, government, social, entertainment, academic, and religious service activities, the City has a heightened risk of “community spread” as that term is defined by the Centers for Disease Control and Prevention (the “CDC”); and

**WHEREAS**, respiratory droplets from infected persons (expelled by various means such as coughing, sneezing, talking or even breathing) are a major mode of COVID-19 transmission,

and this underlies the basis of the recommendations for physical (i.e., social) distancing and of the personal protective equipment guidance for healthcare workers; and

**WHEREAS**, evidence indicates that wearing face coverings in public is an effective practice to mitigate the spread of COVID-19; and

**WHEREAS**, Governor Kemp's Executive Order 08.31.20.02, "Empowering a Healthy Georgia," issued on August 31, 2020, included a recommendation "that all residents and visitors of the State of Georgia are strongly encouraged to wear face coverings as practicable while outside their homes or place of residence, except when eating, drinking, or exercising outdoors;" and

**WHEREAS**, Governor Kemp's Executive Order 08.31.20.02 also provides that municipalities located in counties that have reached the Threshold Requirement are permitted to impose a Local Option Face Covering Requirement; and

**WHEREAS**, Governor Kemp's Executive Order 08.31.20.02 defines "Threshold Requirement" as when "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**, the City is located within DeKalb County, Georgia; and

**WHEREAS**, on August 31, 2020, the Georgia Department of Public Health reported that over the last fourteen (14) days, there were 162 confirmed cases of COVID-19 per 100,000 people in DeKalb County (1,286 total cases); and

**WHEREAS**, DeKalb County meets the Threshold Requirement defined above; and

**WHEREAS**, Governor Kemp's Executive Order 08.31.20.02 defines "Local Option Face Covering Requirement" as "a requirement imposed by a municipal, county, or other government entity that individuals wear face masks or face coverings when not able to maintain Social Distancing from non-cohabitating persons that is permitted by the terms of this Executive Order"; and

**WHEREAS**, Governor Kemp's Executive Order 08.31.20.02 further provides that, in addition to other government entities, municipalities have the authority to control terms of entry onto property owned or leased by the municipality regardless of whether the Threshold Requirement is met, and states that "controlling terms of entry" may include requiring employees or other individuals present on city-owned or -leased property to wear a face mask or face covering provided that no individual shall be denied ingress or egress to or from a Polling Place, as defined under O.C.G.A. § 21-2-2(27), for failure to wear a face covering or face mask; and

**WHEREAS**, on August 11, 2020, the Honorable Harold D. Melton, Chief Justice of the Georgia Supreme Court, issued his "Fifth Order Extending Declaration of Statewide Judicial Emergency" which impacts the operation of and access to all courts across Georgia, including the City's Municipal Court; and

**WHEREAS**, Chief Justice Melton’s Order requires each court to develop and implement operating guidelines as to how in-court proceedings will be conducted to protect the health of litigants, lawyers, judges, court personnel, and the public; and

**WHEREAS**, in accordance with Chief Justice Melton’s Order, the City’s Municipal Court has adopted procedures in response to COVID-19; and

**WHEREAS**, the City’s Municipal Court is conducted and operated within the City Hall facility; and

**WHEREAS**, it is appropriate that the requirements imposed on the public who visit City Hall to participate in Municipal Court proceedings should apply equally to all persons who visit the City Hall facility for any other purpose; and

**WHEREAS**, the City’s purchasing policies should be temporarily suspended to allow the City’s administration to procure goods as needed in direct response to COVID-19-related situations without the necessity of seeking prior approval of the City Council which process could delay the City’s timely acquisition of such needed goods.

**NOW THEREFORE, BE IT RESOLVED**, and it is hereby resolved by the Governing Authority of the City of Stone Mountain, Georgia, as follows:

1. **Mandating Face Masks or Face Coverings in Public.** The City hereby imposes a Local Option Face Covering Requirement (“Requirement”) mandating that all individuals wear a face mask or face covering while in public, subject to the following terms and conditions:
  - a. This Requirement shall not be applied to individuals who are eating or drinking, those who have difficulty donning or removing a face mask or face covering without assistance, those who have a bona fide religious objection to wearing a face mask or face covering, or those who have a bona fide medical reason not to wear a face mask or face covering;
  - b. This Requirement shall not give rise to any fines, fees, penalties (criminal or otherwise) or other cause of action against any private business, establishment, corporation, non-profit corporation, or organization;
  - c. This Requirement shall not give rise to any fines, fees, or penalties in excess of fifty dollars (\$50.00) against any person per offense, nor shall it be punishable by imprisonment for any term;
  - d. Enforcement measures may only be taken against individuals. Owners, directors, officers, or agents of any business, establishment, corporation, non-profit corporation, or organization may not be held liable for the failure of their customers to comply with the requirements herein;

- e. This Requirement shall not be enforced at any Polling Place, as defined under O.C.G.A. § 21-2-2(27), and no individual shall be denied ingress or egress to or from a Polling Place for failure to wear a face covering or face mask;
  - f. This Requirement shall not be enforced against individuals on residential property; and
  - g. This Requirement may be enforced against individuals on private property where the owner or occupant of the property consents to enforcement. Businesses, establishments, corporations, non-profit corporations, and organizations that consent shall post reasonable public notice of the Requirement and shall state that such business, establishment, corporation, non-profit corporation, or organization consents to enforcement of such Requirement on its property.
2. **Noncompliant Individuals – Warnings.** Prior to the issuance of a citation, individuals who are found to be out of compliance with the Requirement shall receive a warning about the health risks posed by not wearing a face mask or face covering. A good faith, reasonable effort shall be made to distribute free masks within the City’s jurisdictional boundary to individuals who cannot afford a face mask or face covering. A person who is found in violation of the Requirement and who cannot afford a face mask or face covering shall be provided one at the City’s expense.
  3. **City Facilities.** The City’s administration shall develop and implement procedures specifically related to any City property (owned or leased) which procedures shall include the conditions under which employees and other individuals present on City property are required to wear a face mask or face covering.
  4. **City Hall – Municipal Court.** All individuals who enter the City Hall facility, whether for purposes related to the City’s Municipal Court or not, shall adhere to and comply with the requirements herein as well as those requirements established by the City’s Municipal Court as required by the “Fifth Order Extending Declaration of Statewide Judicial Emergency,” issued by Chief Justice Harold D. Melton of the Georgia Supreme Court, on August 11, 2020, which impacts the operation of and access to all courts across Georgia, including the City’s Municipal Court.
  5. **City Manager Authority.** The City Manager shall be authorized to make emergency decisions regarding the operations and administration of City affairs during this Local State of Emergency, with immediate (within reason under the circumstances) notification of decision to be made to the City Council, and when there is, in the City Manager’s opinion, insufficient time to obtain prior consent of the City Council.
  6. **Temporary Suspension of City’s Purchasing Policies.** Subject to the availability of appropriations for these purposes, the City’s purchasing procedures at Sec. 2-56(a)(6) of the Code are hereby temporarily suspended to allow the City’s administration to

procure goods as needed in direct response to COVID-19-related situations without the necessity of seeking prior approval of the City Council. The City Manager, as the City's purchasing agent, shall oversee all such acquisitions and shall report all purchases to the City Council as soon as reasonably practicable under the circumstances.

7. **Employee Telework Policy.** During this COVID-19 pandemic, and for other situations that may necessitate such policy, the City of Stone Mountain Telework Policy, a copy of which is attached hereto marked Exhibit A and by this reference incorporated herein, is hereby approved and adopted until such time as this City Council may rescind such policy.

8. **Effective Dates.**

- a. Sections 1 – 3 above are based on Governor Kemp's Executive Order 08.31.20.02 which is written to be effective until September 15, 2020, at 11:59 p.m. If the Governor's Order is extended, Sections 1 – 3 shall likewise be extended to remain valid for the same effective period as provided in such Order.
- b. Section 4 above is based on the "Fifth Order Extending Declaration of Statewide Judicial Emergency," issued by Chief Justice Harold D. Melton of the Georgia Supreme Court, which is written to be effective until September 10, 2020, at 11:59 p.m. If Chief Justice Melton's Order is extended, Section 4 shall likewise be extended to remain valid for the same effective period as provided in such Order.
- c. Sections 5 and 6 above are based on Governor Kemp's Executive Order 08.31.20.01 which extends the public health state of emergency through October 10, 2020, at 11:59 p.m. If the Governor's Order is extended, Sections 5 and 6 shall likewise be extended to remain valid for the same effective period as provided in such Order.

SO RESOLVED this 1<sup>st</sup> day of ~~August~~ <sup>September</sup>, 2020.

CITY OF STONE MOUNTAIN

By: Patricia Wheeler  
Patricia Wheeler, Mayor

ATTEST:

Mallory Minor, City Clerk

[Affix City

