

Ordinance Number 20-082

EMERGENCY ORDINANCE (COVID-19)

WHEREAS, the President of the United States declared a National Public Health Emergency on March 13, 2020; and

WHEREAS, the Governor of the State of Georgia declared a State Public Health Emergency on March 14, 2020 and urged “local officials to do what’s in the best interests of their communities to keep people safe and stop the spread of coronavirus” on March 19, 2020; and

WHEREAS, the World Health Organization has declared Coronavirus Disease 2019 (COVID-19) a world health emergency and a pandemic; and

WHEREAS, the number of confirmed cases and deaths from COVID-19 is escalating rapidly, internationally, nationally, and locally; and

WHEREAS, based upon the experience of other local governments in Georgia, a growing number of other cases are likely to occur; and

WHEREAS, on March 16, 2020, the Center for Disease Control (CDC) and the President of the United States stated that any gathering of over 10 people should be discontinued or prohibited; and

WHEREAS, on March 23, 2020, Governor Kemp announced that “certain individuals with an increased risk of complications from COVID-19 to isolate, quarantine, or shelter in place,” covering those who “live in long-term care facilities, have chronic lung disease, are undergoing cancer treatment, have a positive COVID-19 test, are suspected to have COVID-19 because of their symptoms or exposure, or have been exposed to someone who has COVID-19”, and that the Department of Public Health would institute rules and regulations to implement such measures; and

WHEREAS, on March 23, 2020, Governor Kemp additionally announced measures to “close all bars and nightclubs and ban all gatherings of ten or more people” unless they can assure spacing for at least six (6) feet apart between people at all times beginning at noon on March 24, 2020 and lasting until noon on April 6, 2020; and

WHEREAS, public health experts, including those at the CDC and the National Institutes of Health (NIH), have advised that individuals infected with COVID-19 are contagious even while experiencing minor or no symptoms and implored leaders to take immediate action to prevent further community spread of COVID-19; and

WHEREAS, preventing and slowing community spread of COVID-19 provides health systems additional time to obtain personal protective equipment necessary to protect health care workers and medical equipment necessary to treat COVID-19, and is therefore vital to the health of the nation; and

WHEREAS, in the judgment of the Douglas County Chairman and Board of Commissioners, there exist emergency circumstances located within its jurisdiction requiring extraordinary and immediate response for the protection of the health, safety, and welfare of the citizens of the community, the state, and the nation; and

WHEREAS, it is essential for the governing authority of the County to act immediately in order to minimize the spread of COVID-19 and to prevent or minimize sickness, injury, or death, to people and damage to property resulting from this public health crisis; and

WHEREAS, O.C.G.A. § 38-3-28 provides the political subdivisions of this state with the authority to make, amend, and rescind such orders, rules, and regulations as may be necessary for emergency management purposes to supplement rules and regulations promulgated by the Governor during a State of Emergency; and

WHEREAS, the United States Supreme Court has previously held that “[u]pon the principle of self-defense, of paramount necessity, a community has the right to protect itself against an epidemic of disease which threatens the safety of its members”; and

WHEREAS, the Douglas County Code of Ordinances Chapter 7.7 Emergency Management provides the governing authority of the County with the authority to take actions deemed necessary to deal with such an emergency for the protection of the safety, health, and well-being of the citizens of the County; and

WHEREAS, in response to this emergency, the County’s Chairman issued a Declaration of Emergency dated March 16, 2020, an Amended Declaration of Emergency dated March 17, 2020, and an Amended Declaration of Emergency dated March 23, 2020, invoking certain powers authorized by the Douglas County Code of Ordinances Chapter 7.7 Emergency Management; and

WHEREAS, in response to this emergency, the County’s Chairman issued an Executive Order dated March 23, 2020, closing specified types of businesses, restricting others and prohibiting public gatherings of more than 10 people in Douglas County; and

WHEREAS, on March 25, 2020, the Douglas County Board of Health issued an Executive Order (the "Order") declaring a local state of emergency related to COVID-19 and further issued a “shelter-in-place” order restricting travel, public gatherings and operation of businesses; and

WHEREAS, the County’s Chairman and Board of Commissioners support the Order and urge all citizens and businesses of the County to comply with the Order, and desire to adopt a revised version of these requirements as a County ordinance to assist with enforcement.

NOW, THEREFORE, IT IS HEREBY DECLARED that a local state of emergency exists within Douglas County and shall continue until the conditions requiring this declaration are abated.

BE IT ORDAINED by the Chairman and the Douglas County Board of Commissioners, and it is hereby ordained by the authority thereof as follows:

SECTION ONE

1. The intent of this ordinance is to ensure that the maximum number of people self-isolate in their places of residence to the maximum extent feasible, while enabling essential services to continue, to slow the spread of COVID-19 to the maximum extent possible. When people need to leave their places of residence, whether to obtain or perform vital services, or to otherwise facilitate authorized activities necessary for continuity of life, they should at all times as reasonably possible, comply with Social Distancing Requirements as defined in Section 6 below. All provisions of this Ordinance should be interpreted to effectuate this intent. Failure to comply with any of the provisos of this Ordinance constitutes an imminent threat to the public health.
2. All individuals currently living within the territorial limits of the County shall shelter at their place of residence during the hours of 9:00 pm to 6:00 am. To the extent individuals are using shared or outdoor spaces, they must at all times as reasonably possible maintain social distancing of at least six feet from any other person when they are outside their residence. During the hours of 9:00 pm to 6:00 am, all persons may leave their residences only for Essential Activities, Essential Governmental Functions, or to operate Essential Businesses, all as defined in Section 6. During the hours of 6:00 am to 9:00 pm, sheltering in place is not required. Individuals experiencing homelessness are exempt from this Section, but are strongly urged to obtain shelter, and governmental and other entities are strongly urged to make such available as soon as possible and to the maximum extent practicable (and to utilize Social Distancing Requirements in their operation).
3. All businesses with a facility in the County, except Essential Businesses as defined below in Section 6, are required have hours of operation beginning no earlier than 6:00 am and no later than 9:00 pm except to allow for restocking, cleaning and preparation for the next day's business. During these hours of operation, all businesses are expected to enforce the Social Distancing Requirements as defined in this document including, but not limited to, when any customers are standing in line. For clarity, all businesses may also continue operations consisting exclusively of employees or contractors performing activities at their own residences (i.e., working from home). All Essential Businesses are strongly encouraged to remain open. To the greatest extent feasible, Essential Businesses shall comply with Social Distancing Requirements as defined in Section 6 below.

4. All public and private gatherings of 10 or more people occurring outside a household or living unit are prohibited, except for the limited purposes as expressly permitted in Section 6. Nothing in this Ordinance prohibits the gathering of members of a household or living unit.
5. This Ordinance allows travel into or out of the County to perform Essential Activities, operate Essential Businesses, or maintain Essential Governmental Functions at all times, and to travel for other any other reasons only during the hours of 6:00 am to 9:00 pm.
6. Definitions and Exemptions.
 - a. For purposes of this Ordinance, individuals may leave their residence at any time to perform any of the following “Essential Activities.” But people at high risk of severe illness from COVID-19 and people who are sick are urged to stay in their residence to the extent possible except as necessary to seek medical care.
 - i. To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members or partners or significant others (including, but not limited to, pets), such as, by way of example only and without limitation, obtaining medical supplies or medication, visiting a health care professional, or obtaining supplies they need to work from home.
 - ii. To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example only and without limitation, canned food, dry goods, fresh fruits and vegetable, pet supplies, fresh meats, fish and poultry, and any other household consumer products, and products necessary to maintain the safety, sanitation, and essential operation of residences.
 - iii. To engage in outdoor activity, provided the individuals comply with Social Distancing Requirements as defined in this Section, such as, by way of example and without limitation, walking, hiking, running, or bicycling.
 - iv. To perform work providing essential products and services at an Essential Business or to otherwise carry out activities especially permitted in this Ordinance.
 - v. To care for a family member or pet in another household.
 - b. For purposes of this Ordinance, individuals may leave their residence to work for or obtain services at any “Healthcare Operations” including hospitals, clinics, public health centers, dentists, pharmaceutical and biotechnology companies, other healthcare facilities,

healthcare suppliers, home healthcare services providers, mental health providers, chiropractors, or any related and/or ancillary healthcare services (as ordered by a physician) provided that they carry out those services or that work in compliance with Social Distancing Requirements as defined this Section, to the extent possible. “Healthcare Operations” includes veterinary care and all healthcare services provided to animals. This exemption shall be construed broadly to avoid any impacts to the delivery of healthcare, broadly defined. “Healthcare Operations” does not include fitness and exercise gyms, salons, spas and similar facilities.

- c. For purposes of this Ordinance, individuals may leave their residence to provide any services or perform any work necessary to the operations and maintenance of “Essential Infrastructure,” including but not limited to, public works construction, construction, architecture, and all related activities (in particular affordable housing or housing for individuals experiencing homelessness), airport operations, water, sewer, gas, electrical, oil refining, roads and highways, public transportation, solid waste collection and removal, internet and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services), provided that they carry out those services or that work in compliance with Social Distancing Requirements as defined this Section, to the extent possible.
- d. For purposes of this Ordinance, all first responders, emergency management personnel, emergency dispatchers, court personnel, and law enforcement personnel and others who need to perform essential services are categorically exempt from this Ordinance. Further, nothing in this Ordinance shall prohibit any individual from performing or accessing “Essential Governmental Functions” as determined by the governmental entity performing those functions. Each governmental entity shall identify and designate appropriate employees or contractors to continue providing and carrying out any Essential Governmental Functions. All Essential Governmental Functions shall be performed in compliance with Social Distancing Requirements as defined in this Section, to the extent possible.
- e. For the purposes of this Ordinance, Covered Businesses (both Essential and Nonessential) include any for-profit, nonprofit, or private educational entities, regardless of the nature of the service, the functions they perform, or its corporate or entity structure.
- f. For the purposes of this Ordinance, “Essential Business” means:
 - i. Healthcare Operations and Essential Infrastructure;

- ii. Grocery stores, certified farmers' markets, farm and produce stands, supermarkets, food banks, convenience stores, and other establishments engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and other household consumer products (such as cleaning and personal care products). This includes stores that sell groceries and other nongrocery products necessary to maintain the safety, sanitation, and essential operation of residences;
- iii. Food cultivation, including farming, livestock, and fishing;
- iv. Businesses that provide food, shelter, social services, and other necessities of life for economically disadvantaged or otherwise needy individuals;
- v. Newspapers, television, radio, and other media services;
- vi. Gas stations and auto-supply, auto-repair, and related facilities;
- vii. Banks and related financial institutions;
- viii. Hardware stores;
- ix. Plumbers, electricians, exterminators, and other providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, Essential Activities, and Essential Businesses;
- x. Businesses providing mailing and shipping services, including post office boxes;
- xi. Educational institutions---including private K-12 schools, colleges, and universities---for purposes of facilitating distance learning or performing essential functions, provided that social distancing of six feet per person is maintained to the greatest extent possible;
- xii. Laundromats, drycleaners, and laundry service providers;
- xiii. Restaurants and other facilities that prepare and serve food, but only for delivery or carry out. Schools and other entities that typically provide free food service to students or members of the public may continue to do so under this Ordinance on the condition that the food is provided to students or members of the public on a pick-up and take-away basis only. Schools and other entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or at any other gathering site;

- xiv. Businesses that supply products needed for people to work from home;
- xv. Businesses or manufacturers that supply other essential businesses with the support or supplies necessary to operate;
- xvi. Businesses that ship or deliver groceries, food, goods or services directly to residences;
- xvii. Airlines, taxies, and other private transportation providers providing transportation services necessary for Essential Activities and other purposes expressly authorized in this Ordinance;
- xviii. Home-based care for seniors, adults, or children;
- xix. Residential facilities including hotels, motels, shared rental units and similar facilities and shelters for seniors, adults and children;
- xx. Professional services, such as legal, accounting services, real estate services when necessary to assist in compliance with legally mandated services;
- xxi. Unless otherwise preempted by state law, childcare facilities providing services that enable employees exempted in this Ordinance to work as permitted. To the extent possible, childcare facilities must operate under the following mandatory conditions:
 - 1. Childcare must be carried out in stable groups of 10 or fewer (“stable” means that the same group of 10 or fewer children are in the same group each day).
 - 2. Children may not change from one group to another.
 - 3. If more than one group of children is cared for at one facility, each group shall be in a separate room.
 - 4. Childcare providers shall remain solely with one group of children.
- xxii. All business which possess a Class A, retail liquor package license: Class B, retail beer package license: or a Class C, retail wine package license shall be authorized, but only via drive-thru, in parking lots or at curb for sealed product distribution.
- xxiii. Funeral homes, facilities, and services operating under the following mandatory conditions:
 - 1. Funeral services are limited to 10 or fewer attendees provided that social distancing of six feet per person is maintained to the greatest extent possible.

- g. For purposes of this Ordinance, “Social Distancing Requirements” includes maintaining at least a six-foot distance from other individuals and includes additional infection control measures such as washing hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer, covering coughs or sneezes (into a tissue and immediately discarding, or when a tissue is not available into one’s sleeve or elbow), regularly cleaning high-contact surfaces, and not shaking hands.
7. If any provision of this Ordinance or the application thereof to any person or circumstance is held to be invalid, the remainder of the Ordinance, including the application of such part or provision to other person or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

SECTION TWO

Subject to the provisions of Section One, all restaurants which have a license to sell alcoholic beverages may sell beer and wine in unopened sealed containers with in-person take-out orders and with curb service orders; this does not include delivery to premises other than that of the restaurant. This provision is intended to suspend County enforcement of County ordinances and state law prohibiting certain alcoholic beverages being sold with carry out food purchases. The County has no control over state enforcement of state laws.

Any violation of this Ordinance by a business or an individual, after trial and conviction upon citation and/or accusation, shall be guilty of a misdemeanor with a penalty not to exceed a fine of one thousand dollars (\$1,000.00) or six (6) months imprisonment or both, except as provided by general law. Concurrent jurisdiction shall lie in the State Court of Douglas County Georgia or the Magistrate Court of Douglas County Georgia.

SECTION THREE

This Ordinance shall become effective immediately upon enactment and will continue to be in effect until 11:59 p.m. on April 10, 2020, or until it is extended, rescinded, superseded, or amended in writing.

SECTION FOUR

The provisions of this Ordinance shall supersede the provisions of any conflicting ordinance, except that the Chairman’s Executive Order dated March 23, 2020, the Declaration of Emergency dated March 16, 2020, the Amended Declaration of Emergency dated March 17, 2020 and the Amended Declaration of Emergency dated March 23, 2020 are hereby confirmed, and shall remain in full force and effect.

The Douglas County Board of Commissioners hereby recognizes that the Chairman has the authority to implement, repeal, modify, or extend this Ordinance pursuant to the Douglas County Code of Ordinances.

This is an emergency Ordinance enacted pursuant to the Douglas County Code of Ordinance Chapter 7.7 Emergency Management due to the existing public health emergency resulting from the Corona virus.

Ordained this the 27th day of March, 2020.

Kelly G. Robinson, Vice Chairman, District 2

Henry Mitchell, III, District 1

Tarenia Carthan, District 3

Ann Jones Gunder, District 4

Dr. Romona Jackson Jones, Chairman

Attest:

Lisa Watson, County Clerk

