

ORDINANCE NO.: _____

EMERGENCY ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF DUNWOODY, GEORGIA, UNDER SECTION 1.03 OF THE CHARTER OF THE CITY OF DUNWOODY, GEORGIA, AND O.C.G.A. SECTIONS 38-3-1 THROUGH 38-3-64 DECLARING LOCAL EMERGENCY OF THE NOVEL CORONAVIRUS DISEASE 2019 GLOBAL PANDEMIC, AND FOR OTHER PURPOSES

WHEREAS, the Mayor and Council of the City of Dunwoody, Georgia (“City”), are charged with the protection of the public health, safety, and welfare of the citizens of the City; and

WHEREAS, Section 1.03 of the Charter of the City of Dunwoody, Georgia (“City Charter”), empowers the Mayor and City Council to establish procedures for determining and proclaiming that an emergency situation exists within or without the City, and to make and carry out all reasonable provisions deemed necessary to deal with or meet such an emergency for the protection, safety, health or well-being of the citizens of the City; and

WHEREAS, the World Health Organization has declared the novel coronavirus known as COVID-19 as a global pandemic (“COVID-19 Pandemic”); 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, the novel coronavirus disease 2019 global pandemic is a public emergency affecting and threatening the safety, health and well-being of the citizens of the City; and

WHEREAS, to prevent or minimize injury to people resulting from this event, certain actions are required; and

WHEREAS, the City of Dunwoody, Georgia, has experienced an event of critical significance as a result of the Coronavirus disease; and

WHEREAS, COVID-19 can spread from person to person, and can result in no symptoms, minor symptoms, or serious illness causing permanent organ damage and death; and

WHEREAS, individuals age 65 or over or living with certain medical conditions identified by the CDC (members of Vulnerable Populations) and members of other populations identified by the CDC (“Other Populations at Risk”) are at risk of severe and lasting harm to health or death from COVID-19; and

WHEREAS, COVID-19 also has been reported to cause severe and permanent damage to some children; and

WHEREAS, there is no vaccine or approved treatment for COVID-19; and

WHEREAS, the CDC has noted that COVID-19 spreads very easily and sustainably when an infected person (who may not be symptomatic, or have minor symptoms) talks, sneezes, or coughs in close proximity with others (within six feet); and

WHEREAS, the Governor, through Executive Orders 04.30.20.01, 05.12.20.02, 05.28.20.02, 06.11.20.01 and 06.29.20.02 has recognized the need to take extra precautions to protect certain vulnerable populations who meet the criteria for higher risk of severe illness as defined by the CDC and identified in Section III of the Governor's Executive Order 06.29.20.02 ("Vulnerable Populations"); and

WHEREAS, Executive Orders 04.30.20.01, 05.12.20.02, 05.28.20.02, 06.11.20.01 and 06.29.20.02 required Vulnerable Populations to continue to shelter in place, with exceptions that include participating in essential services and working, through July 15, 2020; and

WHEREAS, the Mayor and City Council desire to protect individuals in said Vulnerable Populations and Other Populations at Risk in a reasonable manner and as recommended by the CDC and by the Georgia Department of Public Health, while such individuals are participating in essential services and working; and

WHEREAS, the CDC, Dr. Kathleen Toomey (Georgia's Commissioner of Public Health), and Governor Kemp through Executive Order 05.12.20.02, and subsequent Executive Orders, have recommended that individuals wear face coverings over the nose and mouth to mitigate the spread of COVID-19 when they are in public places where they cannot practice social distancing (i.e., stay at least six feet away from other individuals who do not share the same household); and

WHEREAS, the CDC states that wearing a face covering over the nose and mouth is a recommended precaution designed to prevent symptomatic and asymptomatic individuals who have contracted COVID-19 from spreading it to other individuals; and

WHEREAS, Dr. Toomey and Governor Kemp have modeled the behavior of wearing face coverings as examples for Georgians to follow; and

WHEREAS, in the past four weeks, the number of confirmed cases of COVID-19 in DeKalb County has gone from 4,229 to 7,158 cases, a 60 percent increase; and

WHEREAS, in the last four weeks, the infection rate in DeKalb County has gone from 5.69 per 1000 residents to 9.63 per 1000 residents; and

WHEREAS, in the last four weeks, the average number of new confirmed cases in DeKalb County has been over 100 per day; and

WHEREAS, in the last four weeks, the percent of diagnostic tests in Georgia yielding a positive result has more than doubled from 7 percent to 17 percent; and

WHEREAS, over 1000 DeKalb County residents have been hospitalized due to COVID-19; and

WHEREAS, 175 DeKalb County residents have died from COVID-19; and

WHEREAS, as indicated above, the State of Georgia remains under a state of emergency as a result of the COVID-19 pandemic; and

WHEREAS, Governor Brian Kemp has relaxed and/or removed many restrictions on businesses resulting in citizens and visitors interacting in public and commercial establishments; and

WHEREAS, the guidelines promulgated by the White House on re-opening America specifically call for a 14-day downward trajectory among other gating criteria, which guidelines are specifically incorporated by referenced; and

WHEREAS, the continued spread of COVID-19 in the City of Dunwoody is a threat to the health, safety and welfare of the Doraville community, especially individuals in Vulnerable Populations and Other Populations at Risk; and

WHEREAS, the number of cases is growing rapidly and if COVID-19 continues to spread in the City of Dunwoody and the surrounding communities, the number of persons relying on medical, pharmaceutical, and general cleaning supplies will increase, the private and public sector work force will be negatively impacted by absenteeism, and the demand for medical facilities may exceed locally available resources; and

WHEREAS, the CDC and public health officials expect that additional cases of COVID-19 will be identified in the coming days; and

WHEREAS, the CDC advises that the use of masks or cloth face coverings will slow the spread of COVID-19, and the CDC recommendations on PPE usage are hereby incorporated by reference; and

WHEREAS, taking measures to control outbreaks minimizes the risk to the public, maintains the health and the safety of the residents of the City of Dunwoody, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS, it is vitally important that we all work together to decrease the widespread proliferation of COVID-19 among us all now rather than suffer the unfortunate and devastating medical and economic consequences later; and

WHEREAS, pursuant to the authority of O.C.G.A. §38-3-28(a), local governments are specifically empowered to enact rules and regulations as may be necessary for emergency management purposes; and

WHEREAS, O.C.G.A. §38-3-28(a) also grants political subdivisions the power to supplement the Governor's Executive Orders; and

WHEREAS, this Ordinance is intended to be entered with due regard to the uniform principle that masks or face coverings will slow the spread of COVID-19 as contemplated by O.C.G.A. §38-3-28(c); and

WHEREAS, this emergency ordinance is authorized by O.C.G.A. §§ 38-3-4 and 38-3-28 on the local control provisions of Governor Kemp's Executive order of June 29, 2020, and it is specifically intended to supplement such declaration, as amended, and should not be construed to be inconsistent therewith; and

WHEREAS, pursuant to O.C.G.A. §38-3-51, the Governor’s declared public health emergency authorizes the Mayor and City Council to use emergency powers in O.C.G.A. §§ 38-3-1 through 38-3-64; and

WHEREAS, pursuant to O.C.G.A. §38-3-6, during an emergency, O.C.G.A. §§ 38-3-1 through 38-3-64 are supposed to be liberally construed to effectuate their purposes; 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 Mayor and City Council of the City of Dunwoody, Georgia, have determined that it is necessary to continue its Declaration of Emergency; and

WHEREAS, the following actions related to requiring face coverings in public are necessary and appropriate to balance the public’s interest in being free from undue restrictions with the compelling public interest of providing for the health, safety and welfare of the residents of the City of Dunwoody and the surrounding communities, particularly those individuals who are members of Vulnerable Populations and Other Populations at Risk; and

WHEREAS, to prevent or minimize injury to people resulting from this event, certain actions are required.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Dunwoody, Georgia (“City Council”), that:

SECTION 1. The City Council hereby declares that a state of emergency continues to exist within the City affecting the safety, health and well-being of citizens due to the novel coronavirus disease 2019 global pandemic (“COVID-19 Pandemic”).

SECTION 2.

(a) All persons within the jurisdiction of the City of Dunwoody shall wear a mask or a cloth face covering over the nose and mouth: (1) when inside a commercial location or other building or space open to the public, or (2) when in an outdoor public space when it is not feasible to maintain social distancing of not less than six feet from another person not from the same household.

(b) While still suggesting that masks and face coverings be worn to the maximum extent practicable, the requirements of this Section shall not apply to the following:

- (1) any person younger than (10) years of age;
- (2) any person with a medical condition or disability that prevents the wearing of a mask or face covering;
- (3) while consuming food or drink;
- (4) while 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 for the minimal amount of time necessary for the service to be performed;

- (6) while in a swimming pool;
- (7) while voting, assisting a voter, serving as a poll watcher, or actively administering an election;
- (8) During physical activity, provided the active person at all times maintains a minimum of six (6) feet from other people not from there same household;
- (9) within any place of worship;

SECTION 3. Nothing in this Ordinance shall impede the operation of any businesses, establishments, corporations, non-profit corporations, and organizations as provided in the Governor’s June Executive Order

SECTION 4. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 5. If any section, subsection, provisions, or clause of any part of this Ordinance shall be declared invalid or unconstitutional, or, if the provisions of any part of this Ordinance as applied to a particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid. It is hereby declared as the intent of the City Council that this Ordinance would have been adopted in its current form without the invalid or unconstitutional provision contained herein.

SECTION 6. This Ordinance shall become effective immediately upon adoption.

SECTION 7. This Ordinance shall automatically stand repealed at 12:00 p.m., August 31, 2020, unless re-enacted as provided herein.

SECTION 8. This Ordinance may be re-enacted for one (1) or more additional periods of thirty (30) days (or repealed) upon a meeting of the City Council called by the Mayor and one (1) councilmember, or three (3) councilmembers of the City Council.

SO ORDAINED this _____ day of _____ 2020, by the Mayor and Council of the City of Dunwoody, Georgia.

CITY OF DUNWOODY, GEORGIA

By: _____
Lynn Deutsch, Mayor

Attest:

City Clerk