

EMERGENCY ORDER REQUIRING THAT FACE COVERINGS BE WORN WHILE IN A PUBLIC PLACE IN THE CITY OF ROME DURING THE COVID-19 PUBLIC HEALTH EMERGENCY TO PROMOTE HEALTH, SAFETY, AND WELFARE.

WHEREAS, Rome, Georgia has experienced an event of crucial significance resulting from the spread of Coronavirus (“COVID-19”) Disease from Wuhan, China; and

WHEREAS, the Centers for Disease Control and Prevention, (“CDC”) indicates that COVID-19 is a contagious respiratory disease caused by a novel coronavirus; and

WHEREAS, COVID-19 is considered a global pandemic by the World Health Organization; and

WHEREAS, COVID-19 can be transmitted from person to person through aerosolization and droplets stemming from both symptomatic and asymptomatic host persons; and

WHEREAS, COVID-19 has been shown to cause symptoms including minor illness, serious illness, organ damage, and death; and

WHEREAS, the CDC has classified individuals age 65 and older or persons living with certain medical conditions to be at an increased risk from illness or death resulting from COVID-19; and

WHEREAS, there is not a vaccine for COVID-19 available to the general public; and

WHEREAS, the CDC noted that COVID-19 spreads through droplets and aerosolization when a person infected with COVID-19 talks, coughs, or sneezes within six feet of other persons; and

WHEREAS, on March 14, 2020 President Donald J. Trump declared a state of national emergency in response to the increasing rate of COVID-19; and

WHEREAS, on March 14, 2020 Governor Brian Kemp declared a Public Health State of Emergency in Georgia, which was renewed on April 8, 2020, April 30, 2020, May 28, 2020 and June 29, 2020, which will remain in effect through August 11, 2020; and

WHEREAS, on March 19, 2020 Floyd County, the City of Rome, and the City of Cave Spring declared a state of emergency and a public health emergency; and

WHEREAS, on March 24, 2020 the City of Rome adopted a Second Ordinance Declaring Local Emergency Related to COVID-19 and declared a shelter-in-place order; and

WHEREAS, Governor Brian Kemp, 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 supported the need for extra precautions to care for vulnerable populations who meet the criteria for increased risk of severe illness as defined by the CDC and identified in Section III of the Governor's Executive Order 06.29.20.02; 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 require vulnerable persons to shelter in place except for participating in essential services and working effective through July, 15 2020; and

WHEREAS, the CDC, Dr. Kathleen Toomey (Georgia Commissioner of Public Health), and Governor Brian Kemp through Executive Order 05.12.20.02 have recommended that individuals wear face coverings that encompass the nose and mouth in an effort to combat the further spread of COVID-19 from symptomatic and asymptomatic persons while in public places and when social distancing is not an option; and

WHEREAS the CDC recognizes that wearing a face covering over the nose and mouth is a precaution that is designed to limit the spread of COVID-19 among persons; and

WHEREAS, Dr. Kathleen Toomey and Governor Brian Kemp have modeled this behavior of mask wearing for Georgians to follow in an effort to reduce the spread of COVID-19; and

WHEREAS, according to the Georgia Department of Public Health Daily Status Report for Wednesday, July 8, 2020 Georgia now has 103,890 confirmed cases including 654 confirmed cases in Floyd County; and

WHEREAS, according to the Georgia Department of Public Health Daily Status Report for Wednesday, July 8, 2020 Georgia now has 2,922 confirmed deaths and 12,500 hospitalizations, and 2,502 admissions to the intensive care unit (“ICU”); and

WHEREAS, according to the Georgia Department of Public Health Daily Status Report for Wednesday, July 8, 2020 Floyd County has 15 deaths and 59 hospitalizations; and

WHEREAS, on July 8, 2020, appearing before a joint meeting of the Commissions of the City of Rome and Floyd County, and the Mayor and Council of the City of Cave Spring, Dr. Gary Voccio, the Director for Georgia Department of Public Health Northwest District, advocated for face coverings to be worn when it is not possible to socially distance; and

WHEREAS, on July 8, 2020, at the same joint meeting, the CEO of Redmond Regional Medical Center, John Quinlivan, the CEO of the Harbin Clinic, Kenna Stock, and the CEO of Floyd Medical Center, Kurt Stuenkel advocated for masks to be worn in public when social distancing is not possible; and

WHEREAS, on July 8, 2020 Dr. John Hostetler, an infectious disease specialist of the Harbin Clinic, recommended that a mask be worn while in public to reduce the spread of COVID-19; and

WHEREAS, due to COVID-19, Georgia remains under a state of emergency; and

WHEREAS, Governor Brian Kemp has relaxed or eliminated restrictions on social distancing within businesses leading to the result of Georgians and visitors intermingling within public spaces and commercial establishments; and

WHEREAS, the guidelines set out by the White House to re-open America specifically requires a 14-day downward trajectory of COVID-19 cases; and

WHEREAS, the City of Rome is in an upward trajectory of COVID-19 infections; and

WHEREAS, this upward trajectory of COVID-19 infections in Georgia is a threat of safety to the occupants and visitors of the City of Rome; and

WHEREAS, if the instances of COVID-19 continues to increase in the City of Rome, the health infrastructure will be heavily burdened by an abundance of illness and an insufficient amount of resources to combat COVID-19 including but not limited to: hospital beds, negative pressure procedural rooms, ventilators, and health care professionals; and

WHEREAS, instituting policies to mitigate risk to citizens of the City of Rome by limiting the spread of COVID-19 infection is crucial to the health, safety, and welfare of the citizens of Rome; and

WHEREAS, the United States Supreme Court held in *Jacobson v. Commonwealth of Massachusetts*, 197 U.S. 11, 27(1905), 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 United States Supreme Court held in *Barbier v. Connolly*, 113 U.S. 27, 31(1884), that the legislature has broad and inherent powers to pass laws that promote the public’s health, safety, and welfare; and

WHEREAS, requiring persons wear face coverings in public when it is impossible to socially distance is an appropriate action to take to promote the health, safety, and welfare of citizens of the City of Rome; and

WHEREAS, requiring a face covering be worn in public when it is impossible to socially distance is a necessary balance between being free from undue governmental restrictions and yet promoting public health, safety, and welfare; and

WHEREAS, pursuant to Section 2-10 of the Charter of the City of Rome, Georgia, and Sections 7-5, 7-11, and 7-37 of the Rome Code of Ordinances, the Commission has the right, duty, power, privilege and authority to exercise and enjoy all other powers, duties, functions, rights, privileges, and immunities necessary and proper to promote or protect the safety, health, peace, security and general welfare of said government and its inhabitants and to exercise all implied powers necessary to carry into execution all powers granted in this Charter and Code as fully and completely as if such powers were fully enumerated herein and to do and perform all of the acts pertaining to its property, affairs and local government which are necessary or proper in the legitimate exercise of its corporate powers and governmental duties and functions; and

WHEREAS, cities and counties in Georgia including but not but limited to, Athens-Clarke County, the City of East Point, and the City of Savannah have established ordinances requiring the wearing of face coverings in some capacity; and

WHEREAS, pursuant to O.C.G.A. Sec. 38-3-28 and Rome Ordinances 7-5 and 7-11, the Commission is authorized to make, amend, and rescind orders, rules, and regulations as necessary for emergency purposes and to supplement carrying out the emergency management laws; and

WHEREAS, pursuant to O.C.G.A. Sec. 38-3-51, the Governor's declared public health emergency authorizes the Commission to use emergencies powers in O.C.G.A. Sections 38-3-1 through 38-3-64; and

WHEREAS, pursuant to O.C.G.A. Sec. 38-3-6, during an emergency, O.C.G.A. Sections 38-3-1 through 38-3-64 are to be liberally construed to effectuate their purposes;

WHEREAS, the Commission of the City of Rome, with advice and input from community members and health care professionals, recognizes the emergency conditions that have resulted from the virulent spread COVID-19 throughout the geographical boundaries of the City of Rome; and

WHEREAS, the Commission of the City of Rome recognizes the need for precautions to be made in an effort to protect the citizens of the City of Rome;

NOW, THEREFORE, the Commission of the City of Rome, Georgia hereby ordains that it is hereby declared that a local state of emergency continues to exist within the geographical limits of the City of Rome, Georgia, and that it shall continue through and including August 24, 2020.

NOW, THEREFORE, because of the local state of emergency ordained and declared the Commission of the City of Rome, Georgia hereby ordains and orders the following:

SECTION 1.

In an effort to promote health, safety, and public welfare for members of the City of Rome by reducing the transmission of COVID-19, face covering shall be required within the City of Rome in public places when social distancing is not feasible.

1. Definitions:

Face covering: a device used to cover the nose and mouth of a person to impede the spread of COVID-19 through droplets or aerosolization.

Public place: any place other than an individual's home, including the curtilage thereof, or personal vehicle.

2. All persons entering a commercial establishment must wear a face covering while inside the establishment. This does not apply to religious establishments; however it is strongly recommended to wear face coverings while inside religious establishments during this state of emergency.
3. All restaurants, retail stores, salons, barber shops, grocery stores, offices, and pharmacies shall require all employees to wear a face covering or mask at all times while engaged in face to face interaction within a public place.
4. Any person who is unable to safely wear a face covering due to age, underlying health condition(s), or is unable to remove the face covering without assistance of other is exempt from this Emergency Order.
5. Face coverings are not required in the following circumstances:
 - a. In a personal vehicle;
 - b. When a person is alone in an enclosed space or only with other household members;
 - c. During outdoor physical activity, provided that the active person maintains a proper social distancing at a minimum of six feet from others who are not household members;
 - d. During organized athletic events for the participating athletes;
 - e. While eating, drinking, or smoking;
 - f. When a licensed health provider has determined wearing a face covering causes or aggravates a health condition in the specific individual; and
 - g. When wearing a face covering would prevent the receipt of personal services.

6. Violations of Sub-Sections 2 and 3 of this Section may be enforced by a notice of ordinance violation issued by any police officer, code enforcement officer, or other authorized law enforcement official as provided below:
 - a. All establishments subject to this Emergency Order shall post a sign in a clearly visible location near the front entrance stating that Per Emergency Order, all persons must wear a face covering and violators are subject to a fine up to \$25.00 for the first offense, \$50.00 for the second offense, and \$100.00 for any subsequent offense.
7. A person who fails to comply with Section 1 of this Emergency Order shall be guilty of a civil infraction, punishable by a fine of not more than \$25.00 for the first offense, \$50.00 for the second offense, and \$100.00 for any subsequent offense. Each day of a continuing violation of this Emergency Order shall be considered a separate and distinct offense. In addition to the fines established herein, persons who own, manage, operate, or otherwise control a business subject to this Emergency Order found in repeated violation hereof, shall, along with their business, be subject to treatment as a public nuisance which may be abated as provided for by law. All reasonable efforts should however be made to bring a business into compliance with this Emergency Order prior to enforcement actions.

SECTION 2

Effective Dates

Unless otherwise stated herein, this Emergency Order shall be effective July 14, 2020 at 12:00 a.m. and remain in effect while a declared state of emergency related to COVID-19 persists

in the State of Georgia. Fines shall not be implemented until Friday, July 31, 2020. As stated above this shall be effective through and including August 24, 2020.

Severability

Should any provision, paragraph, sentence, or word of this Emergency Order be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, paragraphs, sentences, or words of this Emergency Order shall remain in full force and effect.

IT IS HEREBY ORDERED, this ____ day of July, 2020.

CITY OF ROME, GEORGIA

BILL COLLINS, Mayor

Attest:

JOSEPH SMITH, Clerk