

Emergency Declaration and Ordinance No. 03-2020-01

**CITY OF AUSTELL
STATE OF GEORGIA
MARCH 24, 2020**

**EMERGENCY DECLARATION AND ORDINANCE
A DECLARATION OF A STATE OF EMERGENCY ARISING
BECAUSE OF COVID-19; AN ORDINANCE TAKING
IMMEDIATE EMERGENCY MEASURES**

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 (“Governor”) 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;

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 of 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 Mayor and the Council for the City of Austell, State of Georgia (“City”), 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 City 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, pursuant to Sections 1.12(c)(39) and 2.24 of the Charter for the City of Austell, and the powers vested in the Mayor and Council by and through the adoption of the Cobb County Emergency Management Resolution codified in Chapter 34 – Civil Emergencies of the Cobb County, Georgia Code of Ordinances and the adoption of the Cobb County Local Emergency Operations Plan, all of which provides the governing authority of the City 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 city; and

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

THEREFORE, IT IS ORDERED AND ORDAINED BY THE AUTHORITY OF THE MAYOR OF THE CITY OF AUSTELL AND THE CITY COUNCIL OF THE CITY OF AUSTELL AS FOLLOWS:

Section 1. Findings of Fact

For purposes of describing the circumstances which warrant the adoption of an emergency ordinance, the governing authority of the City hereby adopts and makes the findings included in the “WHEREAS” clauses as findings of fact.

Section 2. Declaration of Public Health State of Emergency

The City Council hereby declares a public health state of emergency within the City because of the proliferation of COVID-19 in the United States and the State of Georgia, which will remain in force and effect until noon on April 10, 2020.

Section 3. Public Gatherings on City Property

For the duration of the declared emergency, there shall be no public gatherings on any property owned or controlled by the City. To avoid confusion, the following definitions shall apply under this Section: a “public gathering” shall mean the organized gathering or assembly of ten (10) or more persons at a specific location; “property owned or controlled by the City” shall include any park, public square, public space, playground, recreational area, or similar place of public gathering, but nothing herein shall prohibit individuals or families from using sidewalks or designated pedestrian areas of parks for walking or other exercise if they are not participating in an organized gathering.

Section 4. Utility Services

For the duration of the declared emergency, the City will not disconnect any public utility service provided by the City on account of non-payment. After the conclusion of the declared emergency, persons will have a period of thirty (30) days to make such payments before service may be disconnected unless arrangements have been made between the customer and City.

Section 5. Classification of City Services

For the duration of the declared emergency, the Mayor shall be vested with the following discretion and authority, to wit:

- (a) To categorize City services as either “required” or “discretionary,” and to periodically review and modify such categories.
- (b) To assign specific employees to required or discretionary services, and to periodically review and modify such assignments.
- (c) To use his or her discretion to permit employees to telework.
- (c) To temporarily suspend the provision of discretionary services and to direct employees who provide discretionary services not to report to work until such time as the service

suspension is lifted or until such time as the Mayor redirects the employee to other services.

- (d) To contract for and expend non-budgeted sums and services, as may in his or her discretion be required to meet the demands upon government and services of the City for the duration of the declared emergency, including therein authority to spend such sums from the reserves of the City. Any such non-budgeted expenditures shall be reported to the governing authority of the City.
- (e) To maintain, to the best of the ability of the resources of the City, the provision of essential services, which shall include, but not be limited to, public safety, public works, healthcare, and building permits.

Section 6. Tolling of Deadlines

Any deadlines for the purchasing or obtaining by persons or businesses of occupation tax certificates, permits or similar civil approvals mandated by the City Code shall be tolled for the duration of the emergency as established herein, and for 15 days thereafter. Such persons or businesses shall obtain necessary permissions required by law but deadlines set by the City Code are tolled for the duration of the emergency as established herein, and for 15 days thereafter.

Section 7. Eating Establishments

Restaurants and other eating and dining establishments where food is served must cease offering dine-in services but may continue preparing and offering food to customers via delivery, drive-through or take-out services. Patrons, employees and contractors of the establishments must maintain at least six (6) feet of personal distance between themselves and others.

Section 8. Closure of Certain Businesses

Gyms, fitness centers, pools, social clubs, amusement facilities, bowling alleys, pool halls, theaters, massage parlors, nail salons, and any other similar facility, any facility used for an activity that involves prolonged physical proximity of individuals, and any facility used for entertainment, social, grooming, or general health and wellbeing purposes, must close and remain closed for the duration of this emergency.

Section 9. Personal Distance

All other establishments not covered in Section 7 of this Ordinance such as grocery stores, pharmacies, and other businesses which remain open during the emergency must post signage on entrance doors informing consumers to maintain at least six (6) feet of personal distance between themselves and others and shall not allow more than one person per every twenty (20) square feet of retail space into such establishment at any one time if such social distancing cannot be maintained.

Section 10. Gatherings

All public and private gatherings of more than ten (10) people occurring outside of a household or living unit are prohibited. Nothing in this ordinance, however, prohibits the gathering of individuals for the purposes of carrying on business certified as “essential” by the Georgia Emergency Management Agency pursuant to O.C.G.A. § 38-3-58 or designated by the Governor as “critical infrastructure” or the provision of medical or health services.

Section 11. Emergency Interim Successor to Manager/Administrator

The governing authority desires to make certain that the chain of authority within City management is clear. If the Mayor is unable to perform his or her duties, then the Mayor hereby appoints the Mayor Pro Tempore as the emergency interim successor pursuant to O.C.G.A. § 38-3-50 and shall assume the duties of the Mayor. Should the emergency interim successor be unable to perform those duties, then Councilwoman Sandra Leverette, of the Council for the City, shall assume those duties.

Section 12. Voluntary Curfew

For all those individuals not been specifically mandated by the Governor to be isolated, quarantined, or sheltered in place, meaning 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” as set forth above, a voluntary curfew is imposed from 9:00 p.m. to 5:00 a.m. effective immediately. It is strongly encouraged by the Mayor and Council that all residents comply with this voluntary curfew during this time. Residents, unless “exempt individuals” as defined herein, it is strongly suggested that they remain in their homes or on their property during the curfew period. Exempt individuals include those individuals engaged in the provision of designated, essential services, such as (1) fire; (2) law enforcement; (3) medical and hospital services, including veterinary services; (4) military services; (5) utility emergency repairs; (6) persons seeking emergency medical services or hospital services and those persons assisting such persons; (7) individuals traveling to and from their jobs with appropriate identification and persons traveling to medical facilities; (8) individuals engaged in the delivery of food, medicine, medical supplies, fuel including, but not limited to, the re-stocking of grocery stores, pharmacies, and convenience stores; (9) news media employees; (10) designated employees or agents of businesses designated by the Georgia Emergency Management Agency as “essential” pursuant to O.C.G.A. § 38-3-58; (11) persons providing necessary care of companion animals in the custody and care of an animal shelter, boarding facility, or kennel and persons walking personal animals; and (12) critical infrastructure businesses and employees as designated by the Governor or identified by U.S. Department of Homeland Security Cybersecurity and Infrastructure Security Agency.

Section 13. Procurement

The governing authority hereby suspends the bid and competitive portions of the City’s Procurement Policy or ordinances and authorizes the Mayor to utilize the single-source policy and

dates of this Declaration and Ordinance and/or utilize any emergency procurement provisions contained. City officials shall continue to seek the best prices during the state of emergency.

Section 14, Powers Granted to Mayor

For the duration of the declared emergency, the Mayor shall be vested with all the powers set forth in the Cobb County Civil Emergency Management Resolution codified in Chapter 34 – Civil Emergencies of the Cobb County, Georgia Code of Ordinances as adopted by the City and any and powers conferred upon the Mayor by the Cobb LEOP as adopted by the City.

Section 15. Conflicts

All ordinances or parts of ordinances in conflict with the provisions of this Declaration and Ordinance are hereby suspended during the effective dates of this Declaration and Ordinance (or any extension thereof) and the terms and provisions of this Declaration and Ordinance shall prevail.

Section 16. Effective Date

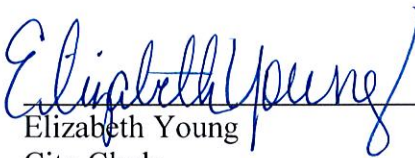
This Ordinance after adoption by the Council and upon approval by the Mayor shall become effective immediately.

IT IS SO ORDAINED AND RESOLVED, this 24th day of March, 2020.



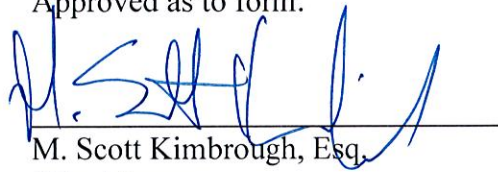
Ollie Clemons, Mayor
City of Austell

Attest:



Elizabeth Young
City Clerk

Approved as to form:



M. Scott Kimbrough, Esq.
City Attorney