

A Declaration Of A State Of Emergency Arising Because Of Covid-19 And Emergency Ordinance Taking Immediate Emergency Measures, Providing For Mandatory Shelter In Place, Providing For Exemptions From Mandatory Shelter In Place For Essential Businesses And Services, Essential Activities, And Essential Government Functions, And For Other Purposes Related Thereto.

BE IT ORDAINED:

WHEREAS, Newton County, Georgia (the “County”) and the City of Porterdale, Georgia (the “City”) have experienced an event of critical significance as a result of the Coronavirus (COVID-19) disease (“COVID-19”); and

WHEREAS, the Centers for Disease Control and Prevention, (the “CDC”) indicates that COVID-19 is a new and contagious respiratory disease caused by a novel (new) coronavirus that was first detected in China and which has now been detected in more than 100 locations internationally, including in the United States; and

WHEREAS, as reported by the World Health Organization (“WHO”), the world has experienced a deep humanitarian crisis with more than 372,575 cases and more than 16,231 deaths due to COVID-19 as of March 23, 2020; and

WHEREAS, COVID-19 is officially a global pandemic according to the WHO; and

WHEREAS, President Trump has declared a national emergency for the United States of America in response to COVID-19; and

WHEREAS, on March 14, 2020, Governor Brian Kemp declared a public health state of emergency due to COVID-19; and

WHEREAS, as reported by the Georgia Department of Public Health effective as of noon on March 25, 2020, Georgia now has 1,274 confirmed cases of COVID-19 and 40 COVID-19 related deaths and the numbers continue to increase; and

WHEREAS, the CDC and Georgia Department of Public Health have issued guidance on the emerging and rapidly evolving situation of the COVID-19 pandemic, including how to protect oneself from illness; and

WHEREAS, social distancing is recommended by the CDC and Georgia Department of Public Health to prevent the continued spreading of the illness in the community; and

WHEREAS, cities, states and counties, including, but not limited to, Alameda County, California, Athens-Clarke County, Georgia, the County of Los Angeles, California, Madison, Georgia, Newton County Georgia, the County of Seattle, Washington and the states of California, Pennsylvania, New Jersey, New York and Connecticut have recently enacted regulations to help curb the spread of COVID-19; and

WHEREAS, the Georgia Department of Public Health reports that COVID-19 is currently present in our community; and

WHEREAS, the CDC expects that additional cases of COVID-19 will be identified in the coming days and that person-to-person spread is likely to continue to occur; and

WHEREAS, Dr. Carlos Del Rio, MD, epidemiologist and chair of the global health department at Emory University, has reported to officials of the Georgia Municipal Association, and the Chairman of Newton County, that a shortage of personal protective equipment is eminent in Georgia, and already being experienced in certain communities, which places the health, safety, and welfare of emergency medical personnel at risk and the general public; and

WHEREAS, the Georgia Department of Public Health and the chief of medicine at Piedmont Newton Hospital are concerned that any increase in COVID-19 cases within the community could easily exceed Piedmont Newton Hospital and the medical community's capacity as to both personnel and equipment; and

WHEREAS, the Piedmont Healthcare system, which provides the County's sole hospital, has modeled its daily COVID-19 patient numbers using a peer-reviewed, academic modeling made available to the nation by the University of Pennsylvania; and

WHEREAS, based on Georgia-specific numbers and infection rates, Piedmont's model shows that if a mandatory shelter-in-place is not enacted to flatten the curve, Piedmont Healthcare's entire system will be at capacity with no beds available by Tuesday, April 7, 2020; and

WHEREAS, the Georgia Department of Public Health has advised that if COVID-19 spreads further in Newton County and the rest of Georgia, at a rate comparable to the rate of spread in other affected areas, it may greatly strain the resources and capabilities of county and municipal governments, including public health agencies, that provide essential services for containing and mitigating the spread of contagious diseases, such as COVID-19, and the situation may become too large in scope to be handled in its entirety by the normal county and municipal operating services in some parts of this State, and this situation may spread to other parts of the State; 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 previously has 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 member"; and

WHEREAS, Section 2.24 of the City Charter of Porterdale, Georgia 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

WHEREAS, the Mayor and City Council of the City of Porterdale, Georgia find that the present state of emergency requires extraordinary and immediate corrective actions for the protection of the health, safety, and welfare of the citizens of the City and the surrounding communities; and

WHEREAS, to prevent or minimize injury to people resulting from this event, certain actions are required, including but not limited to, a mandatory curfew and prohibition on gatherings;

NOW, THEREFORE, IT IS RESOLVED AND ORDAINED AS FOLLOWS:

Section 1. The Mayor and City Council hereby adopt and make the findings set for and discussed in the “Whereas” paragraphs the factual findings of the Board.

Section 2. The Mayor and City Council hereby declare that a local state of public health emergency exists within the territorial limits of the Porterdale, Georgia due to COVID-19.

Section 3. The intent of this Emergency 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 social and commercial life, they should at all times reasonably possible comply with Social Distancing Requirements as defined in Section 12 below. All provisions of this Ordinance should be interpreted to effectuate this intent. Failure to comply with any of the provisions of this Ordinance constitutes an imminent threat to public health.

Section 4. All individuals currently living within the territorial limits of the City shall shelter at their place of residence. 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. All persons may leave their residences only for Essential Activities, Essential Governmental Functions, or to operate Essential Businesses, all as defined in Section 12. 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 shelter available as soon as possible and to the maximum extent practicable (and to utilize Social Distancing Requirements in their operation).

Section 5. All businesses with a facility in the City, except Essential Businesses as defined below in Section 12, are required to cease all activities at facilities located within the City except Minimum Basic Operations, as defined in Section 12. For clarity, businesses may also continue operations consisting exclusively of employees or contractors performing activities at their own

residences (i.e., working from home). To the greatest extent feasible, Essential Businesses shall comply with Social Distancing Requirements as defined in Section 12 below, including, but not limited to, when any customers are standing in line. To the extent a business facility engages in both the functions of an Essential Business and other business functions, except as otherwise herein provided, only the functions of the Essential Business may continue except Minimum Basic Operations.

Section 6. All public and private gatherings of any number of people occurring outside a household or living unit are prohibited, except for the limited purposes as expressly permitted in Section 12. Nothing in this Emergency Ordinance prohibits the gathering of members of a household or living unit. For the duration of the declared emergency, there shall be no public gatherings on any property owned or controlled by the City and all public parks shall be closed. Nothing herein shall prohibit individuals or families from using sidewalks or designated pedestrian walking areas within parks for walking or other exercise if they are not participating in an organized gathering.

Section 7. All travel, including, but not limited to, travel on foot, bicycle, scooter, motorcycle, automobile, except Essential Travel and Essential Activities as defined below in Section 12, is prohibited. This Emergency Ordinance allows travel into or out of the City to perform Essential Activities, operate Essential Businesses, or maintain Essential Governmental Functions.

Section 8. This Emergency Ordinance is issued based on evidence of increasing occurrence of COVID-19 within Newton County and throughout the State of Georgia, scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically, and evidence that the age, condition, and health of a significant portion of the population of the County places it at risk for serious health complications, including death, from COVID-19. Due to the outbreak of the COVID-19 virus in the general public, which is now a pandemic according to the World Health Organization, there is a public health emergency throughout the County. Making the problem worse, some individuals who contract the COVID-19 virus have no symptoms or have mild symptoms, which means they may not be aware they carry the virus. Because even people without symptoms can transmit the disease, and because evidence shows the disease is easily spread, gatherings can result in preventable transmission of the virus. The scientific evidence shows that at this stage of the emergency, it is essential to slow virus transmission as much as possible to protect the most vulnerable and to prevent the health care system from being overwhelmed. One proven way to slow the transmission is to limit interactions among people to the greatest extent practicable. By reducing the spread of the COVID-19 virus, this Emergency Ordinance helps preserve critical and limited healthcare capacity in Newton County.

Section 9. This Emergency Ordinance also is issued in light of the existence of 7 confirmed cases of COVID-19 in Newton County, Georgia as of 12:00 noon on March 25, 2020, including a significant and increasing number of suspected cases of community transmission and likely further significant increases in transmission. Widespread testing for COVID-19 is not yet available but is expected to increase in the coming days. This Emergency ordinance is necessary to slow the rate of spread and the Mayor and City Council will re-evaluate it as further data becomes available.

Section 10. This Emergency Ordinance is issued in accordance with, and incorporates by reference, the March 16, 2020, Proclamation of a State of Emergency issued by Governor Brian Kemp.

Section 11. This Emergency Ordinance comes after the release of substantial guidance from the Centers for Disease Control and Prevention, the Georgia Department of Public Health, and other public health officials throughout the United States and around the world, including a variety of prior orders to combat the spread and harms of COVID19. The Mayor and City Council will continue to assess the quickly evolving situation and may modify or extend this Emergency Ordinance, or issue additional ordinances, related to COVID-19.

Section 12. Definitions and Exemptions.

a. For purposes of this Emergency Ordinance, individuals may leave their residence only 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 vegetables, 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 specifically permitted in this Emergency Ordinance, including Minimum Basic Operations.
- v. To care for a family member or pet in another household.

b. For purposes of this Emergency Ordinance, individuals may leave their residence to work for or obtain services at any “Healthcare Operations” including hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, home healthcare services providers, hospice providers, mental health providers, or any related and/or ancillary healthcare services. “Healthcare Operations” also 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 and similar facilities.

c. For purposes of this Emergency 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 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 Emergency Ordinance, all first responders, including but not limited to emergency management personnel, court personnel, law enforcement personnel, and others who need to perform essential services as determined by the City Mayor are categorically exempt from this Emergency Ordinance. Further, nothing in this Emergency 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 Emergency Ordinance, covered businesses include any for-profit, nonprofit, or private educational entities, regardless of the nature of the service, the function they perform, or its corporate or entity structure.

f. For the purposes of this Emergency Ordinance, “Essential Businesses” 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 any other household consumer products (such as cleaning and personal care products). This includes stores that sell groceries and also sell other nongrocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences;
- iii. Food cultivation, including farming, livestock, and fishing;
- iv. Businesses that provide food, shelter, and 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, auto-supply, auto-repair, and related facilities;
- vii. Hardware stores;
- viii. Plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, Essential Activities, and Essential Businesses;
- ix. Businesses providing mailing and shipping services, including post office boxes;
- x. 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;
- xi. Laundromats, drycleaners, and laundry service providers;
- xii. 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 services to students or members of the public may continue to do so under this Emergency 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;
- xiii. Businesses that supply products needed for people to work from home;
- xiv. Businesses that supply other Essential Businesses with support or supplies and all industrial manufacturers;
- xv. Businesses that ship or deliver groceries, food, goods, or services directly to residences;
- xvi. Airlines, taxis, and other private transportation providers providing transportation services necessary for Essential Activities and other purposes expressly authorized in this Emergency Ordinance;
- xvii. Professional services, such as legal, accounting services, real estate services, when necessary to assist in compliance with legally mandated activities or while supporting other Essential Businesses.
- xviii. All restaurants which hold a valid license for sale of beer and/or wine by the drink for consumption on the premises where sold, shall be permitted to sale beer and/or wine for takeout provided, however, that the sale of beer and/or wine may only be made in conjunction with a sale of food, and provided further, than any beer or wine so sold shall be in the original unopened container.

g. For the purposes of this Emergency Ordinance, “Minimum Basic Operations” include the following, provided that employees comply with Social Distancing Requirements as defined in this Section to the extent possible, while carrying out such operations.

- i. The minimum necessary activities to maintain the value of the business’s inventory, necessary physical maintenance, ensure security, process payroll and employee benefits, or for related functions.
- ii. The minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences.
- iii. One owner of the business, or one designee of the owner, on site at the business performing functions necessary to maintain the business, provided that the business must be physically closed to the public.

h. For the purposes of this Emergency Ordinance, “Essential Travel” includes travel for any of the following purposes. Individuals engaged in any Essential Travel must comply with all Social Distancing Requirements as defined in this Section below.

- i. Any travel related to the provision of or access to Essential Activities, Essential Governmental Functions, Essential Businesses, or Minimum Basic Operations.
- ii. Travel to care for elderly, minors, dependents, persons with disabilities, or other vulnerable persons.
- iii. Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services.
- iv. Travel to return to a place of residence from outside the jurisdiction.
- v. Travel required by law enforcement or court order.
- vi. Travel required for non-residents to return to their place of residence outside the City. Individuals are strongly encouraged to verify that their transportation out of the City remains available and functional prior to commencing such travel.

i. For purposes of this Emergency Ordinance, residences include hotels, motels, shared rental units and similar facilities.

j. For purposes of this Emergency Ordinance, “Social Distancing Requirements” includes maintaining at least six-foot social distancing from other individuals, washing hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, and not shaking hands.

Section 13. For the duration of the declared emergency, the City Manager 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.
- d. 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 City Manager redirects the employee to other services.
- e. 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.
- f. 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 14. 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.

The due date and payment of alcohol excise taxes of restaurants licensed to sell alcoholic beverages by the drink for consumption on the premises where sold pursuant to Chapter 4 of the City of Porterdales Code of Ordinances, shall be delayed through and until June 30, 2020, and shall not be subject to penalties or interest. Any alcohol excise taxes of restaurants that accrue and are unpaid during the period until June 30, 2020, shall be paid to the City in six (6) equal installments in the months of July through December, 2020. All alcohol excise taxes of restaurants accruing after June 30, 2020, shall be due and payable in accordance with the normal procedure beginning July 1, 2020.

Section 15. Enforcement and Remedies.

- a. *Individuals:* In recognition that the City does not have the personnel or resources to monitor and police distancing or gathering limitations or shelter in place requirements for all individuals currently living within the territorial limits of the City, the City of Porterdales Police Department and other departments of the City as deemed necessary by the City Manager are authorized to support compliance with this Emergency Ordinance through information delivery and education of individuals regarding the imminent threat to public health posed by COVID-19.

b. *Covered Businesses*: Any violations of this Emergency Ordinance by covered businesses shall be considered ordinance violations subject to the general penalty provisions outlined in Section 1-7 of the City of Porterdale Code of Ordinances.

Section 16. This Emergency Ordinance shall become effective at 11:59 p.m. on March 26, 2020 and will continue to be in effect until 11:59 p.m. on April 7, 2020, or until it is extended, rescinded, superseded, or amended in accordance with the provisions of Section 2.24 of the City Charter.

Section 17. Copies of this Emergency Ordinance shall promptly be: (1) made available at the Porterdale City Hall; (2) posted on the City's website; and (3) provided to any member of the public requesting a copy of this Emergency Ordinance.

Section 18. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses, and phrases of this Emergency Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable, and constitutional.

Section 19. It is hereby declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Emergency Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Emergency Ordinance. It is hereby further declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Emergency Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Emergency Ordinance.

Section 20. In the event that any phrase, clause, sentence, paragraph or section of this Emergency Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and City Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of this Emergency Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs, and sections of this Emergency Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 21. All ordinances, resolutions or parts of ordinances or resolutions in conflict with this Emergency Ordinance are, to the extent of such conflict, hereby stayed and abated until the Emergency shall have ended.

Section 22. The City Clerk, in consultation with the City Attorney, shall have the power to correct scriveners' errors contained within this Emergency Ordinance.

RESOLVED AND ORDAINED, this _____ day of _____, 2020.

ATTEST:

Linda Hanna, City Clerk

Arline Chapman, Mayor

Timothy D. Chambers, City Attorney

Niki Westcott, Council Member Post 1

Linda Finger, Council Member Post 2

Tim Savage, Council Member Post 3

Mike Harper, Council Member Post 4

Lowell Chambers, Council Member Post 5