

**STATE OF GEORGIA
COUNTY OF FULTON**

AN ORDINANCE BY THE MAYOR AND CITY COUNCIL REQUIRING THE USE OF MASKS OR FACIAL COVERINGS DURING THE COVID-19 PANDEMIC

WHEREAS, the World Health Organization declared COVID-19 a worldwide pandemic as of March 11, 2020; 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, acting pursuant to guidelines of the Centers for Disease Control and Prevention (“CDC”) and other public health authorities, on March 12, 2020, the Sandy Springs City Council (“City Council”) issued an ordinance declaring a public health State of Emergency to address COVID-19 (“Emergency Declaration Ordinance”) to restrict certain activities within the City to ensure that appropriate social distancing is practiced, lessening the chance of spreading the illness; and

WHEREAS, a significant number of Georgia residents are at risk of serious health complications, including death, from COVID-19; and

WHEREAS, a large number of persons with serious infections can compromise the ability of the healthcare system to deliver necessary care to the public; and

WHEREAS, individuals diagnosed with COVID-19 have been known to experience long-term health effects following recovery from acute COVID-19 symptoms; and

WHEREAS, COVID-19 is a respiratory illness, transmitted through person-to-person contact or by contact with surfaces contaminated with the virus and persons infected with COVID-19 may become symptomatic two to fourteen days after exposure; and

WHEREAS, asymptomatic (including pre-symptomatic) infected persons are known to be infectious and, without mitigation many infections occur from individuals without symptoms; and

WHEREAS, respiratory droplets, including aerosols, from infected persons are a major mode of COVID-19 transmission, which is the basis of the recommendations for physical distancing, and of the personal protective equipment guidance for healthcare workers; and

WHEREAS, evidence indicates that the use of masks or facial coverings reduces the transmissibility per contact by reducing transmission of infected droplets in both laboratory and clinical contexts; and

WHEREAS, wearing masks or facial coverings in public is most effective at reducing or stopping the spread of COVID-19 when compliance is high; and

WHEREAS, Governor Brian Kemp has repeatedly and strenuously urged Georgians to wear masks or facial coverings when in public; and

WHEREAS, specifically, Governor Kemp, through Executive Order 05.12.20.02 and subsequent Executive Orders, has recommended that individuals wear facial 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., staying at least six (6) feet away from other individuals who do not share the same household); and

WHEREAS, in early July, Governor Kemp embarked on a statewide “Wear a Mask Tour” flying to numerous Georgia cities to publicly emphasize the need for Georgians to wear masks; and

WHEREAS, on July 6, 2020, Governor Kemp introduced the “Georgia Safety Promise,” a safety campaign to remind Georgia businesses and the public of following COVID-19 safety guidelines, including wearing facial coverings; and

WHEREAS, guidelines published by the CDC recommend that all people wear cloth facial coverings in public settings where other physical distancing measures may be difficult to maintain; and

WHEREAS, decreased transmissibility due to facial covering use could substantially reduce the number of illnesses, hospitalization, and deaths and reduce the negative economic impact of the COVID-19 pandemic and the cost of the intervention of mandating the wearing of masks is extremely low; and

WHEREAS, O.C.G.A. § 38-3-28(a) grants political subdivisions the power to supplement the Governor’s Executive Orders so long as such actions are consistent with the Governor’s Orders; and

WHEREAS, this Ordinance is intended to be entered into with due regard to the widely accepted, scientifically proven uniform principle that masks or facial coverings will slow the spread of COVID-19; and

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

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 intended to be liberally construed to effectuate their purposes; and

WHEREAS, on August 15, 2020, Governor Kemp issued Executive Order 08.15.20.01 which specifically offers guidelines for local government mask mandates; and

WHEREAS, after a steady trend of decreasing metrics, recent weeks have seen the numbers of COVID-19 cases, hospitalizations, and deaths spike in Georgia and in the City, and this worrying trend of increased COVID-19 spread is a danger to the health and safety of every citizen and also presents a serious threat to reopening and reviving the economy; and

WHEREAS, wearing a mask or facial covering in public is the easiest and most effective way to protect each other and help keep City businesses open and its economy running; and

WHEREAS, mask wearing is not only safe and easy, but necessary to avoid more restrictive local measures that could involve closing businesses, schools, organized youth sports, and other important activities, and the City must remain flexible to account for the evolving nature and scope of the unprecedented public health emergency posed by COVID-19, while also simultaneously, safely, strategically, and incrementally reopening businesses and facilitating economic recovery and revitalization; and

WHEREAS, the following actions related to requiring facial coverings in public are necessary and appropriate to balance the public’s interest in not being unduly burdened with the compelling public interest of providing for the health, safety and welfare of the residents of the City; and

WHEREAS, the goal of this Ordinance is to increase the usage of masks and facial coverings and not to generate revenue; and

NOW, THEREFORE, BE IT ORDAINED that for the protection of members of the public, masks or facial coverings shall be required within the City to slow the spread of COVID-19 as follows:

SECTION 1.

- (a) The provisions of this Ordinance shall be applicable only to the extent that Fulton County meets the threshold requirement in which the prevalence of confirmed cases of COVID-19 over the previous fourteen (14) days is equal to or greater than one hundred (100) cases per one hundred thousand (100,000) people according to the Georgia Department of Public Health.
- (b) For purposes of this Ordinance, the following terms are hereby defined as follows:
 - (1) *Entity* means any private business, establishment, corporation, non-profit corporation, or organization, including the curtilage thereof.
 - (2) *Facial covering or mask* means a device to cover the nose and mouth of a person and impedes the spread of saliva, respiratory droplets, or other fluids during speaking, coughing, sneezing or other intentional or involuntary action. Medical grade masks are not required; coverings may be fashioned as advised by the CDC and from other suitable fabrics. The mask or facial covering must cover the mouth and nose of the wearer.
 - (3) *Polling place* means the room provided in each precinct for voting at a primary or election.
 - (4) *Public place* means any place other than a personal vehicle, residential property, or an entity including the curtilage thereof.
- (c) Except as otherwise provided in this Ordinance all persons in an entity or a public place shall wear a mask or facial covering over the mouth and nose at all times where other physical distancing measures may be difficult to maintain from non-cohabitating persons.
- (d) Masks or Facial coverings are not required in the following circumstances:
 - (1) In personal vehicles or upon residential property;
 - (2) When a person is alone in enclosed spaces or only with other household members;
 - (3) When the individual has a bona fide religious objection to wearing a facial covering or mask;
 - (4) While drinking or eating;
 - (5) When a licensed healthcare provider has determined that wearing a facial covering or mask causes or aggravates a health condition for the individual or when such person has a bona fide medical reason for not wearing a facial covering or mask;
 - (6) When wearing a facial covering or mask would prevent the receipt of personal services or performing work in the course of employment;
 - (7) When complying with the directions of a law enforcement officer or for the purposes of verifying a person's identity, such as when purchasing alcohol, tobacco, or prescription drugs or when engaging in a financial transaction;
 - (8) In situations where such use would jeopardize the safety or well-being of a law enforcement or other public safety officer or the safety or well-being of a member of the general public, or in a situation where a mask or facial covering would hinder vital communications during contact with

an individual in a law enforcement or other public safety situation, such situations to be determined in the discretion of the officer.

- (9) Children under the age of ten (10) years;
 - (10) When the individual is having difficulty donning or removing a mask or facial covering without assistance;
 - (11) At any polling place and no individual shall be denied ingress or egress to or from a polling place for failure to wear a facial covering or mask;
 - (12) When outdoors and maintaining social distancing from anyone other than individuals with whom they cohabitate;
 - (13) Athletes who are engaged in an organized sports activity that allows the athletes to maintain six (6) foot distance from others with only infrequent or incidental moments of closer proximity; and
 - (14) When an entity exempts itself from the mask requirements as permitted by the Governor's Executive Order 08.15.20.01.
- (e) Every entity subject to this Ordinance which does not require the use of masks or facial coverings as provided herein upon its property shall post a clearly legible sign in one inch Arial font at all public entrances of such entity stating the following: "This location does not require the use of masks or facial coverings upon this property."
- (f) In all locations where facial coverings or masks are not required to be worn pursuant to this Ordinance, they are strongly encouraged to be worn.

SECTION 2.

This Ordinance shall be effective immediately and shall remain in effect until revised or repealed by further action of the Mayor and City Council.

SECTION 3.

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

SECTION 4.

Should any ordinance or part thereof be found to conflict with this Ordinance or the provisions thereof, then those sections contained herein shall be deemed controlling.

SO ORDAINED, this _____ day of _____, 2020.

MAYOR AND COUNCIL

CITY OF SANDY SPRINGS, GEORGIA

Russell K. Paul, Mayor

ATTEST:

Raquel Gonzalez, City Clerk

Approved as to Form:

Dan Lee, City Attorney