

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 yet 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 Governor Brian Kemp declared a Public Health State of Emergency in Georgia, which the Governor has renewed multiple times, most recently through his Executive Order 11.30.20.01, which maintains the Public Health State of Emergency though January 8, 2021; 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, 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, 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 presymptomatic) 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. This understanding is the basis of the recommendations for physical distancing, and of the personal protective equipment guidance for healthcare workers. Droplets do not only come from coughing or sneezing; droplets are also generated via talking and breathing; and

WHEREAS, evidence indicates that the use of face coverings reduces the transmissibility per contact by reducing transmission of infected droplets in both laboratory and clinical contexts. Public face covering wearing is most effective at stopping the spread of the virus when compliance is high. This evidence supports the conclusion that the adoption of more widespread face covering requirements can help to control the COVID-19 epidemic by reducing the shedding of droplets into the environment from asymptomatic and symptomatic individuals; and

WHEREAS, evidence from the South Carolina Department of Health and Environmental Control announced on August 12, 2020, that parts of the State of South Carolina under public mask-wearing mandates registered a 46.3% drop in coronavirus cases in the four weeks after they were introduced as compared to areas of the state which did not impose such mandates; and

WHEREAS, evidence from data from the State of Alabama shows a 11% drop in COVID-19 cases in the four weeks since that state's mask mandate went into effect; and

WHEREAS, according to a Vanderbilt University study, hospitals in the State of Tennessee where at least 75% of patients came from mask-mandate counties reported hospitalizations rising by only 30% since July 1, 2020, as compared to a rise of 200% in the same time period when 75% or more of patients came from counties without mask mandates in the State of Tennessee; 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, 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, this Ordinance is intended to be entered with due regard to the widely accepted, scientifically proven uniform principle that masks or face coverings will slow the spread of COVID-19; 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; and

WHEREAS, medical professionals within the City of Rome and Floyd County have advised that they have observed an increased in the number of COVID-19 infections and have requested that the City of Rome institute a face covering requirement to help prevent the spread of COVID-19; 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 and to prevent overburdening medical facilities in the City of Rome and Floyd County; and

WHEREAS, the following actions related to requiring face 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, pursuant to Section VII of Executive Order 11.30.20.02, which Governor Kemp issued on November 30, 2020, city and county governments are authorized to issue a “Local Option Face Covering Requirement” if said city or county meets the “Threshold Requirement”; and

WHEREAS, Executive Order 11.30.20.02 defines a “Local Option Face Covering Requirement” as “a requirement imposed by a municipal, county, or other government entity that individuals wear face masks or face coverings when not able to maintain Social Distancing from non-cohabitating persons that is permitted by the terms of [Executive Order 11.30.20.02]”; and

WHEREAS, Executive Order 11.30.20.02 defines the “Threshold Requirement” as “the prevalence in a county 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”; and

WHEREAS, according to data available from the Georgia Department of Public Health as of December 3, 2020, available at <https://dph.georgia.gov/covid-19-daily-status-report>, the cases per 100,000 people in Floyd County, Georgia, over the past fourteen (14) days is 452; and

WHEREAS, Floyd County, Georgia, of which the City of Rome is the county seat, exceeds the 100 cases per 100,000 people threshold set by Governor Kemp in Executive Order 11.30.20.02; and

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

NOW, THEREFORE, the Commission of the City of Rome, Georgia hereby declares 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 Friday, January 8, 2021.

NOW, THEREFORE, BE IT ORDAINED that for the protection of members of the public, face coverings or masks shall be required within the City to slow the spread of COVID-19, and the Commission of the City of Rome, Georgia hereby ordains and orders the following:

SECTION 1.

- (a) 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) *Face 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 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, including public rights-of-way, shall wear a face covering or mask over the mouth and nose at all times where other physical distancing measure may be difficult to maintain from non-cohabitating persons.
- (1) To the extent consistent with the Governor's Order, all restaurants, retail stores, salons, grocery stores, and pharmacies in the City must require their employees to wear a face covering at all times while having face-to-face interaction with the public.
- (d) Face coverings or masks 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 face covering or mask;
 - (4) While drinking or eating;
 - (5) When a licensed healthcare provider has determined that wearing a face 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 face covering or mask;
 - (6) When wearing a face 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) Children under the age of ten (10) years;

- (9) When the individual is having difficulty donning or removing a face mask or face covering without assistance;
 - (10) At any polling place and no individual shall be denied ingress or egress to or from a polling place for failure to wear a face covering or mask; and
 - (11) When exercising, or outdoors and maintaining social distancing from anyone other than individuals with whom they cohabitate.
- (e) (1) Every entity subject to this Ordinance which does not consent to enforcement of this Ordinance upon its property shall post a clearly legible sign in at least one inch Arial font at all public entrances of such entity stating the following:
- “This location does not consent to enforcement of any local face covering requirement upon this property.”
- (2) If an entity does not post the signage described in subparagraph (1) of this paragraph it shall be conclusively presumed to have consented to enforcement of this Ordinance on its property and failures by individuals to wear face coverings or masks as required by this ordinance shall be determined to be violations and enforced as contemplated in paragraph (f).
- (f) Violations of this Section 1 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:
- (1) A person who fails to comply with paragraph (c) of Section 1 of this Ordinance shall be first given a warning and an opportunity to put on a face covering or mask, leave the entity, or comply with one of the exceptions in paragraph (d) of Section 1.
 - (2) If the person violating this Ordinance refuses or fails to comply with this Ordinance after being given a warning pursuant to subparagraph (1) of this paragraph then such person may be subject to a civil penalty of not more than \$25.00 on the first offense and not more than \$50.00 on the second and any subsequent offenses.
 - (3) A notice of violation may be served by delivery into the hands of the suspected violator or by other reasonable process for serving notice of ordinance violations used by the City.
 - (4) Violations of this ordinance shall not be enforced against any entity and shall not be taken against any owner, director, officer, or agent of an entity for the failure of their customers to comply with this ordinance.

- (5) Notwithstanding the foregoing, every effort shall be made to bring an individual into voluntary compliance with the terms of this Ordinance prior to issuance of any notice of violation, including providing complimentary masks, explaining the importance of wearing face coverings during this pandemic, and issuing verbal and written warnings.
- (6) Any person who is found in violation of this Ordinance and who cannot afford a face mask or face covering shall be provided one.
- (g) In all locations where face coverings or masks are not required to be worn pursuant to this Ordinance, they are strongly encouraged to be worn to protect the public health and safety.

SECTION 2.

The face covering requirement imposed by Section 1 of this Ordinance shall be effective immediately and shall remain in effect until January 8, 2021 at 11:59 p.m.

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.

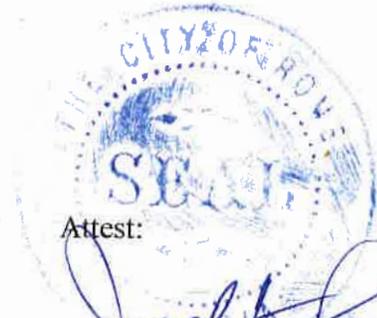
Except as otherwise limited by the language of this Ordinance, the face covering requirement shall be construed to apply to the full extent of the language within Section VII of Executive Order 11.30.20.02, which Governor Kemp issued on November 30, 2020.

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.

[Signatures appear on the next page.]

IT IS HEREBY ORDERED, this 8th day of December, 2020.



CITY OF ROME, GEORGIA

Bill Collins
BILL COLLINS, Mayor

Attest:

Joseph Smith
JOSEPH SMITH, Clerk

Approved as to Form:

J. Anderson Davis
J. ANDERSON DAVIS, City Attorney