

Ordinance 2020-14

EMERGENCY DECLARATION AND ORDINANCE

**A DECLARATION OF A STATE OF EMERGENCY ARISING
BECAUSE OF COVID-19; AN ORDINANCE TAKING
IMMEDIATE EMERGENCY MEASURES AND RATIFYING
PREVIOUS ORDERS/DIRECTIVES AND DECLARATIONS**

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 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 [were] 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 for 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;

WHEREAS, in the judgment of the Mayor and Council of the City of Tybee Island , 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 of Tybee Island 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, the Charter of the City of Tybee Island , section 1.13(7) 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 City has previously declared an emergency to exist within the limits of the City and imposed certain restrictions & made Orders/ Directives to protect the public health & welfare; and

WHEREAS, The President of the United States, as announced by Governor Kemp, declared the State of Georgia to be a major disaster and Governor Kemp has ordered enforcement of social distancing requirements in State parks, lakes and certain waterways.

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

THEREFORE, IT IS ORDERED AND ORDAINED BY THE AUTHORITY OF THE MAYOR and COUNCIL OF THE CITY OF TYBEE ISLAND 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 adopt and make the findings included in the “WHEREAS” clauses as findings of fact.

Section 2. Declaration of Public Health State of Emergency

The Mayor and Council hereby declares a public health state of emergency within the City of Tybee Island because of the proliferation of COVID-19 in the United States and the State of Georgia, which will remain in force and effect until 12:00 midnight on April 30, 2020 unless sooner cancelled or extended by further action of the Mayor and Council.

Section 3. City Council Operations and Rules

City Council shall continue to operate and assemble at public meetings, subject to the following:

a) Pursuant to the provisions of O.C.G.A. § 50-14-1(g), City Council may conduct public meetings via teleconference while this Ordinance is in effect, without the requirement of having a quorum present in person, so long as notice is provided and simultaneous access is afforded to the public to the teleconference meeting. Notwithstanding the foregoing, in the event the City is unable to provide public simultaneous access to a teleconference, the City shall take steps to ensure access to minutes and discussions as promptly as possible through the City website or social media.

b) Unless Council decides to act otherwise, all policy-making functions of City Council (i.e. strategic plans, ordinances, land use planning functions, visioning, development of City-wide objectives and goals and like activities) shall be suspended while this Ordinance is in effect, except for policy-making and ordinance functions directly related to addressing COVID-19 and related public health and safety issues;

c) All zonings, plats, variances, and other land-use decision-making shall be suspended while this Ordinance is in effect;

d) All non-essential business (i.e. proclamations, presentations, etc.) shall be suspended while this Ordinance is in effect;

e) Contract, budgeting and fiscal operations shall continue in the ordinary course of business;

f) Council rules and practices requiring or calling for two (2) readings of an ordinance and the introduction of an ordinance are suspended, and emergency actions may be taken by ordinance effective immediately.

Section 4. 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. **See Section 14**

Notwithstanding the foregoing, the beaches of the Island having been closed by Emergency Directive and Declaration of March 20, 2020 remains in place; is affirmed and ratified and is extended until the effective termination of this ordinance.

City dog parks are to remain open. Persons are required to maintain six (6) feet of social distancing of other persons.

Public restrooms are to be closed to the public due to health concerns and to be consistent with the Stay at Home requirements.

Section 5. 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. **See Section 14**

Section 6. Classification of City Services

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, up to \$30,000, 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 7. 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. See Section 14

Section 8. 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. If a restaurant is licensed to sell beer and wine for on-premises consumption, such restaurant, during the effective dates of this ordinance only, shall be authorized to sell unopened bottles or cans of beer or wine for take-out consumption off-premises; See **Section 14(g) containing other restrictions.**

Section 9. Closure of Certain Businesses

- Gyms, fitness centers, pools, social clubs, amusement facilities, bowling alleys, pool halls, theaters, massage parlors, nail and hair salons, charter boats, dolphin tour boats, jet skis, or other watercraft or instrument rentals, bicycle rentals and any other similar business, all gift shops, clothing stores or shops, art shops, vaping stores, golf cart or motorized vehicle rental businesses, businesses that provide bicycle or rentals of similar transportation devices, such as but not limited to scooters, skate boards, surf boards, kayaks, canoes or other watercrafts, etc. and 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. This shall not include businesses which provide services or products considered essential including hardware, plumbing, building materials and businesses repairing transportation vehicles including automobiles, bicycles and golf carts, nor those businesses which make necessary and urgent home repairs, including the repair of HVAC systems. Landscaping and home pest control operations may also continue.

- Businesses that are not located on Tybee Island, but which deliver products, equipment or services, which are not essential shall cease operations. Food products, medications and health services are essential.

Section 10. Personal Distance

All other establishments not covered in Sections 8 or 9 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 ten (10) people into such establishment at any one time if such social distancing cannot be maintained.

Section 11. 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, the provision of medical or health services, or critical infrastructure businesses and employees as designated by the Governor or identified by U.S. Department of Homeland Security Cybersecurity and Infrastructure Security Agency (as may be found in the Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response, or subsequent document).

Section 12. 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 City Manager is unable to perform his duties, then the individual designated by the City Manager, George Shaw, Assistant City Manager, as the emergency interim successor pursuant to O.C.G.A. §38-3-50 shall assume the duties of the

City Manager. Should the emergency interim successor be unable to perform those duties the Mayor of the City shall assume those duties.

Section 13. Procurement

The governing authority hereby suspends the bid and competitive portions of the City's Procurement Policy or ordinances and authorize the City Manager to utilize the single-source policy and to require departments to provide a written justification for the procurement during the effective dates of this Resolution and/or utilize any emergency procurement provisions contained. City officials shall continue to seek the best prices during the state of emergency.

Section 14. Existing and Prior Declarations and Directives and Amendments thereto

The City has previously adopted declarations, directives and resolutions necessitated by Covid-19 , all of which are ratified and reaffirmed herein. For purposes of clarity, those prior actions, including the following:

- a) Cancellation of permitted activities for groups in excess of Ten (10) persons
- b) The closing to the public of all beaches
- c) The public consumption of alcoholic beverages was and is prohibited
- d) Staff was directed to make a resource request to all agencies involved relating to closure or restriction of traffic onto the Island
- e) City parking lots were and are closed subject to the direction of the City Manager or his designee
- f) Restaurants and other facilities that prepare and serve food may only do so for delivery or carry out purposes
- g) All non-essential businesses must close and cease operations including, but not limited to, the sale of merchandise, services and all alcohol and food sales for consumption on the premises at 11:00 p.m. effective March 20, 2020. Notwithstanding the foregoing, businesses may continue food take-out services after 11:00 p.m. for pickup from phone or online orders. There shall be no food or beverages sold to customers on any part of the business premises or approaches thereto, while waiting on a pickup order. No business shall allow customers to be served, remain or congregate at any time on the premises or area adjacent thereto, including parking areas. Curbside pickup is permissible and the manager or his designee may establish parking places for that purpose. Takeout services shall cease each morning no later than 2:45 a.m. and each business shall remain closed until 7:00 a.m. when take-out, delivery and pick-up operations may resume.
- h) Establishments selling gasoline may begin operations at 6:00 a.m.

- i) Fees and charges for occupational taxes, business licenses shall not be due until April 30, 2020 and no late charges, fees or penalties will accrue from March 18, 2020 until April 30, 2020. This grace period expires April 30, 2020.
- j) All nonessential businesses as defined herein shall cease operations as of 12:01 a.m. on March 28, 2020 until further directive or the expiration of the Emergency Declaration whichever shall last occur.
- k) Public playground equipment and courts shall not be used, occupied or played on or upon. Groups in excess of ten (10) in public parks are prohibited and no recreational sports whether formally or informally organized are permitted.

Section 15. Stay at Home

All individuals currently occupying homes, residences, hotel rooms, rental units or any accommodation whatsoever (hereinafter "residence"), within the City of Tybee Island are ordered to shelter at such 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 (6) feet from any other person, other than household members, when they are outside their residence. All persons may leave their residence only for essential activities, essential government functions or to operate or assist in the operation of essential businesses, including to work. To the greatest extent feasible all essential businesses shall comply with social distancing requirements by maintaining six (6) foot social distancing for both employees and members of the public including, but not limited to, when any customers are standing in line

All public or private gatherings or events of Ten (10) persons or more are prohibited within the City. This includes but is not limited to social gatherings at a home or facility but does not apply to essential City activities. This also does not apply to gatherings of members of a household or living unit.

All travel including travel on foot, bicycle, scooter, motorcycle, golf cart, or automobile, is only permissible for essential services, businesses or activities.

Essential activities include:

- a) 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 (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.

- b) To obtain necessary services or supplies for themselves and their family or household members or to deliver those services or supplies to others.
- c) To engage in outdoor activity, provided the individuals comply with social distancing requirements, such as, by way of example and without limitation, walking hiking, biking, running or other form of exercise and lawfully riding vehicles for recreation.
- d) To perform work deemed essential in this city or any other jurisdiction.
- e) To care for a family member or pet in another household.

Section 16. Short Term Vacation Rentals (STVRs), Hotels/Motels, Bed & Breakfast and all other rental lodging accommodations.

All operators, owners or managers of STVRs, hotels, motels, bed & breakfasts and all other rental lodging accommodations, are to cease accepting any new reservations from the effective date hereof through midnight on April 30, 2020, for occupancy for the period of the effective date hereof through April 30, 2020. No new check-ins for occupancy shall be permissible commencing noon. on April 3, 2020. This restriction does not apply to reservations or check-ins for first responders and other public safety personnel in need of shelter.

The owners, managers and/or operators of any unpermitted, undesignated and/or authorized location used for short term (less than 30 days) rental purposes are subject to the provisions hereof and will be subject to all existing penalties as might be available for having failed to comply with existing ordinances as well as for violation of this ordinance.

Section 17. Severability

If one or more of the provisions contained in this Emergency Declaration and Ordinance (this Ordinance) shall be held to be invalid, in violation of the Georgia Constitution, in violation of Georgia law, or unenforceable in any respect, such invalidity, violation, or unenforceability shall not affect any other provisions of this Ordinance, but, in such case, this Ordinance shall be construed as if such invalid, illegal, or unenforceable provision had never been contained within the Ordinance.

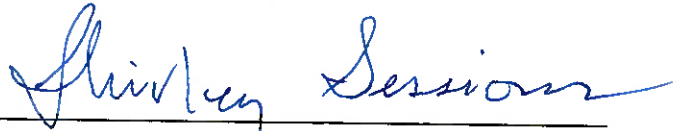
Section 18. Penalties

All violations of any of the provisions hereof shall subject the violator to the general penalty under the existing ordinances as well as to potential loss of liquor license, Alcohol license, permits or licenses previously issued, including any Occupational Tax Certificate.

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

This Ordinance after adoption shall become effective immediately.


IT IS HEREBY ORDAINED AND RESOLVED, this 2 day of April, 2020.




Shirley Sessions, Mayor

Attest:

Approved as to form:



Jan LeViner, City Clerk



Edward M. Hughes, City Attorney

