

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 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 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 Spalding County Board of Commissioners, 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 Spalding County 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 “upon 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 Code of Ordinances of Spalding County provides the governing authority of the County 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 County; and

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

THEREFORE, IT IS ORDERED AND ORDAINED BY THE AUTHORITY OF THE SPALDING COUNTY BOARD OF COMMISSIONERS 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 Spalding County 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 Spalding County Board of Commissioners hereby declares a public health state of emergency within the Spalding County because of the proliferation of COVID-19 in the United States and the State of Georgia, which will remain in force and effect until 11:59 pm on April 24, 2020.

Section 3. Public Gatherings on County Property

For the duration of the declared emergency, there shall be no public gatherings on any property owned or controlled by Spalding County. 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 County” 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. Classification of County Services

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

- (a) To categorize County 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, and to allow telework wherever possible to reduce contact with others and encourage social distancing.
- (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 County Manager redirects the employee to other services.
- (e) To contract for and expend non-budgeted sums and services specifically related to this emergency, as may in his or her discretion be required to meet the demands upon government and services of the County for the duration of the declared

emergency. Any such non-budgeted expenditures shall be reported to the governing authority of the County. The Board of Commissioners must approve any expenditures made from the existing fund balance of the County.

- (f) To maintain, to the best of the ability of the resources of the County, the provision of essential services, which shall include, but not be limited to, public safety, public works, healthcare, and building permits.
- (g) To provide administrative powers to amend this Emergency Declaration and Resolution regarding the items contained herein as specifically related to this emergency.

Section 5. 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 County 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 County Code are tolled for the duration of the emergency as established herein, and for 15 days thereafter.

Section 6. 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. Eating establishment regulations prohibited by this Section shall not include cafeterias located within medical, industrial, governmental or other such production facilities that are performing essential functions necessary to promote health, welfare and vital resources in Spalding County.

Section 7. 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, exclusive of medical and mental health providers, must close and remain closed for the duration of this emergency.

Section 8. 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 ten (10) people into such establishment at any one time if such social distancing cannot be maintained.

Section 9. 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 10. Emergency Interim Successor to Manager/Administrator

The governing authority desires to make certain that the chain of authority within County management is clear. If the County Manager is unable to perform his or her duties, then the Assistant County Manager shall be the emergency interim successor pursuant to O.C.G.A. § 38-3-50 shall assume the duties of the County Manager. Should the emergency interim successor be unable to perform those duties the Commission Chairman as Chief Executive Officer of the County shall assume those duties.

Section 11. Voluntary Shelter at Home

The governing body of Spalding County requests that all persons within the County consider voluntarily sheltering at home and not leave their homes, except as follows:

- (a) When a person is on an errand necessitated due to an emergency or engaged in procuring or seeking an essential service;
- (b) When a person is traveling or returning directly home from lawful employment or otherwise engaged in lawful employment that makes it necessary to leave home;
- (c) When a person is engaged in interstate and intrastate vehicular travel through the County;
- (d) When a person is procuring essential food or medicine or seeking essential medical care or providing essential food, medicine, or medical care to another person; or

- (e) Personal or family activities such as walking, jogging, and cycling.

Section 12. Curfew

A curfew is imposed from 9:00PM to 5:00AM effective March 27, 2020. Residents, unless “exempt individuals” as defined herein, shall 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

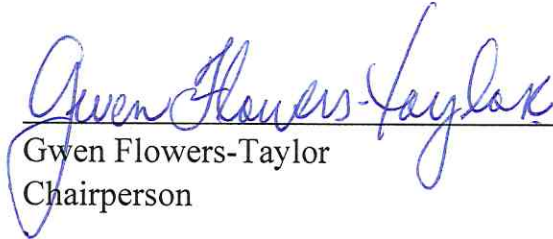
For goods and services specifically related to the emergency, the governing authority hereby suspends the bid and competitive portions of the County’s Procurement Policy or ordinances and authorize the County Manager to utilize the single-source policy and to require departments to provide a written justification for the procurement during the effective dates of this Resolution and/or utilize any emergency procurement provisions contained. County Officials shall continue to seek the best prices during the state of emergency.

Section 14.

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.

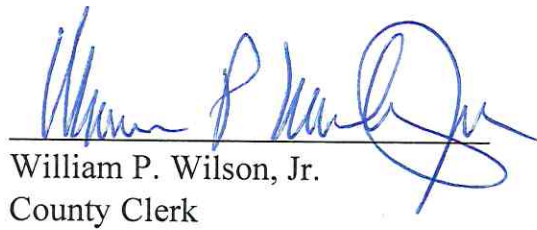
This Ordinance after adoption by the Board of Commissioners and upon approval by the Chairman shall become effective on March 27, 2020.

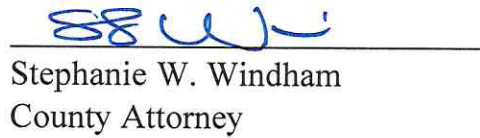
ORDAINED AND RESOLVED, this 26th day of March 2020.


Gwen Flowers-Taylor
Chairperson

Attest:

Approved as to form:


William P. Wilson, Jr.
County Clerk


Stephanie W. Windham
County Attorney