ORDINANCE

AN ORDINANCE BY THE BOARD OF COMMISSIONERS FOR BALDWIN COUNTY, GEORGIA REQUIRING THE USE OF MASKS OR FACE COVERINGS IN PUBLIC DURING THE COVID-19 OUTBREAK

WHEREAS, the World Health Organization declared COVID-19 a worldwide pandemic as of March 11, 2020;

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency in response to the outbreak of COVID-19;

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;

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

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

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

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;

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

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;

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;

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;

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;

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;

WHEREAS, according to the Georgia Department of Public Health, the spread of COVID-19 has rapidly escalated in the State of Georgia and the DPH has recommended the wearing of masks and other facial coverings as a valuable tool in slowing the spread of COVID-19 in the State of Georgia;

WHEREAS, the Governor also has repeatedly and strenuously urged Georgians to adopt a practice that is simple but highly effective at preventing the spread of COVID-19: wearing a face covering or mask when in public;

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 feet away from other individuals who do not share the same household);

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;

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 face coverings;

WHEREAS, guidelines published by the U.S. Centers for Disease Control (CDC) recommend that all people wear cloth face coverings in public settings where other physical distancing measures may be difficult to maintain. The CDC also advises the use of simple cloth face coverings to slow the spread of the virus and help people who may have the virus and do not know it from transmitting it to others;

WHEREAS, the White House Coronavirus Task Force has repeatedly called for the wearing of masks to be mandatory in the State of Georgia;

WHEREAS, decreased transmissibility due to face 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;

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;

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

WHEREAS, pursuant to O.C.G.A. § 38-3-51, the Governor's declared public health emergency authorizes County governments 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 supposed to be liberally construed to effectuate their purposes;

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

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;"

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 County;

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

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

SECTION 1.

(a) The provisions of this Ordinance shall only be enforced in a county 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 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 facial 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.

(d) Facial 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 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) 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 facial covering or mask;

(11) When outdoors and maintaining social distancing from anyone other than individuals with whom they cohabitate; and

(12) When participating in organized sports activities in compliance with the requirements of Executive Orders issued by the Governor for the State of Georgia.

(e) (1) Every entity subject to this Ordinance which does consent to enforcement of this Ordinance 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 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 not consented to enforcement of this Ordinance on its property and failures by individuals to wear facial coverings or masks as required by this ordinance shall not be determined to be violations and shall not be enforced as contemplated in paragraph (f).

(f) Violations of this Section 1 may be enforced by a notice of ordinance violation issued by any County law enforcement 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 facial 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 County.

(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 facial coverings during this pandemic, and issuing verbal and written warnings.

(g) 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 at noon on the second day following the adoption of this ordinance and shall remain in effect until revised or repealed by further action of the Board of Commissioners.

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 24 day of August, 2020.

BALDWIN COUNTY BOARD OF COMMISSIONERS, GEORGIA

Chairman

ATTEST:

County Clerk