

STATE OF GEORGIA
COUNTY OF FANNIN

**EMERGENCY DECLARATION AND ORDINANCE
OF A LOCAL STATE OF EMERGENCY
RELATED TO COVID-19**

WHEREAS, Fannin County, a political subdivision of the State of Georgia is experiencing events of critical significance as a result of the Coronavirus, hereinafter referred to as COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization declared that the Novel Coronavirus 2019 ("COVID-19") disease is a global pandemic, in response to over 118,000 cases present in over 110 countries globally, while currently there are over 267,000 cases, over 11,000 deaths in 184 countries; and

WHEREAS, on March 13, 2020, President Donald J. Trump declared a national emergency, and pledged the "full power of the federal government" to fight this pandemic; and

WHEREAS, on March 14, 2020, Governor Brian Kemp issued Executive Order 3.14.20.01, which declared a public health emergency for the purpose of easing restrictions that might otherwise hinder the ability of public health systems to respond appropriately to the COVID-19 pandemic, through April 13, 2020, unless further extended; and

WHEREAS, on March 16, 2020, the Georgia General Assembly entered a 2020 Special Session to adopt House Resolution 4EX, ratifying Governor Brian Kemp's public health emergency declaration, and reserving the right to terminate the emergency declaration through future legislative action; and

WHEREAS, as the Georgia Department of Public Health has confirmed positive cases of COVID-19 in Georgia, including fatalities caused by COVID-19 statewide, and there are confirmed cases in the North Georgia Health District, which includes Fannin County, Georgia; and

WHEREAS, medical professionals have advised that if COVID-19 continues to spread in Fannin County and the rest of Georgia at a rate comparable to that rate of spread in other affected areas, it may greatly strain the resources and capabilities of county and municipal governments, including public health agencies, that provide essential services for containing and mitigating the spread of contagious diseases, such as COVID-19, and the situation may become

too large in scope to be handled in its entirety by the normal county and municipal operating services in some parts of this State, and this situation may spread to other parts of this State; and

WHEREAS, a critical component of the public response to the COVID-19 pandemic is to practice "social distancing" by minimizing contact between people residing in different households as much as possible; and

WHEREAS, despite guidance from the United States Centers for Disease Control and Prevention ("CDC"), stating that people should avoid gathering in crowds of ten or more, and guidance from the Georgia Emergency Management Agency ("GEMA"), recommending that Georgians should avoid gathering in groups of any size, it has been evidenced that people in Fannin County continue to gather in large numbers in enclosed spaces where social distancing cannot be effectuated; and

WHEREAS, Pursuant to O.C.G.A. § 38-3-28, the Fannin County Board of Commissioners, as the governing authority of a political subdivision of the State of Georgia, 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, under O.C.G.A. § 38-3-6, emergency powers created by the law are intended to be liberally construed so as to allow government officials to meet the demands of emergencies within their jurisdictions; and

WHEREAS, preventing and slowing community spread of COVID-19 is therefore vital to the health of the Fannin County, Georgia and the United States;

WHEREAS, in the judgment of the Board of Commissioners of Fannin County, a political subdivision of the state of Georgia 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, the Governor's Executive Order issued on March 23, 2020 did not include statewide application of certain measures that the Board of Commissioners of Fannin County, a political subdivision of the State of Georgia deems necessary within its jurisdiction to attempt 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, 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 Fannin County Board of Health did on March 25, 2020 adopt a "RESOLUTION FANNIN COUNTY BOARD OF PUBLIC HEALTH COVID-19- 2020-1",

which provided in part a recommendation that all tourism accommodations be closed during the pendency of the COVIS-19 pandemic; and

WHEREAS, Section IV of the Fannin County Emergency Management Ordinance, adopted on October 23, 2012, provides, among other powers, that:

In the event of a man-made or natural disaster or any other emergency which may affect lives and property of the citizens of Fannin County, The Fannin County Board of Commissioners may declare that an emergency or disaster exists and thereafter shall have and may exercise for such periods as such emergency or disaster continues, the following powers:

- (1) To appropriate and expend funds, execute contracts, and to obtain and distribute equipment, materials, and supplies for emergency management purposes.
- (2) To provide for the health and safety of persons and property, including emergency assistance to the victims of any emergency or disaster resulting from man-made or natural causes or enemy attack and to direct and coordinate the development of emergency management agencies.

... and

(13) Closed or Restricted Areas and Curfews During Emergency

(a) To preserve, protect or sustain the life, health, welfare and safety of persons, or their property, within a designated area under a declaration of emergency, it shall be unlawful for any person to travel, loiter, wander or stroll in or upon the public streets, highways, roads, lanes, parks or other public grounds, public places, public buildings, places of amusement, eating places, vacant lots or any other place during a declared emergency between hours specified by the Chairman of the Board of Commissioners until the curfew is lifted.

(b) To promote order, protect lives, minimize the potential for looting and other crimes, and facilitate recovery operations during an emergency, the Chairman of the Board of Commissioners shall have discretion to impose reentry restrictions on certain public areas. The Chairman shall exercise such discretion in accordance with the county emergency operations plan, which shall be followed during emergencies.

(c) The provisions of this section shall not apply to persons acting in the following capacities:

- (i) Authorized and essential law enforcement personnel;
- (ii) Authorized and essential health care providers;

- (iii) Authorized and essential personnel of the county;
- (iv) Authorized National Guard or federal military personnel;
- (v) Authorized and essential firefighters;
- (vi) Authorized and essential emergency response personnel;
- (vii) Authorized and essential personnel or volunteers working with or through the county emergency management agency (EMA);
- (viii) Authorized and essential utility repair crews;
- (ix) Citizens seeking to restore order to their homes or businesses while on their own property or place of business;
- (x) Other authorized and essential persons as designated on a list compiled by EMA, the Director of Public Safety and/or the Sheriff of the county,

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

THEREFORE, IT IS ORDERED:

Article 1.

As required by law, the foregoing “WHEREAS” clauses shall be and do describe the specific circumstances and finding of facts which warrant the adoption of an emergency ordinance and the Fannin County Emergency Management Ordinance as adopted on October 23, 2012 is implemented.

Article 2.

The Fannin County Board of Commissioners hereby declares a public health state of emergency within the Fannin County, Georgia because of the proliferation of COVID-19 in the United States and the State of Georgia, which will remain in force and effect until April 13, 2020 unless extended or repealed.

Article 3.

For the duration of the declared emergency:

- (1) All Fannin County residents are encouraged to “shelter in place”.
- (2) All nonessential business are encouraged to close, work remotely, or at a minimum practice social distancing within the work place.

(3) For the purpose of this Ordinance For the purposes of this Ordinance, "Essential Businesses" means:

A. Healthcare Operations and essential infrastructure;

B. Grocery stores, farmers' markets, farm and produce stands, supermarkets, food banks, convenience stores, and other establishments engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products (such as cleaning and personal care products). This includes stores that sell groceries and also sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences;

C. Food cultivation, including farming, livestock, and fishing;

D. Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals;

E. Newspapers, television, radio, and other media services;

F. Gas stations and auto-supply, auto repair, and related facilities;

G. Banks and related financial institutions, including pawn stores;

H. Hardware stores;

I. Plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences and Essential Businesses;

J. Businesses providing mailing and shipping services, including post office boxes;

K. Educational institutions-including public and private K-12 schools, colleges, and universities-for purposes of facilitating distance learning or performing essential functions, provided that social distancing of six-feet per person is maintained to the greatest extent possible;

M. Laundromats, dry cleaners, and laundry service providers;

N. Restaurants and other facilities that prepare and serve food, but only for delivery or carry out. Cafeterias in hospitals, nursing homes, or similar facilities shall not be subject to the restrictions contained in this Ordinance.

- O. Businesses that supply products needed for people to work from home;
- P. Businesses that supply other essential businesses with the support or supplies necessary to operate;
- Q. Businesses that ship or deliver groceries, food, goods or services directly to residences;
- R. Home-based care for seniors, adults, or children;
- S. Residential facilities and shelters for seniors, adults, and children;
- T. Professional services, such as legal or accounting services;
- U. Childcare facilities;
- V. Construction services; and
- W. Utility, water, sewer, gas, electrical, oil refining, roads and highways, railroads, public transportation, taxi/rideshare, solid waste collection and removal, internet, and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services).

(3) There shall be no public gatherings on any property owned or controlled by the County. To avoid confusion, the following definitions shall apply: a “public gathering” shall mean the organized gathering or assembly of more than ten 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.

(4) All businesses that provide services that normally cater to tourist (as well as Fannin County residents) including, but not limited to, escape rooms, miniature golf, zip-lines, all water related activities (such as rafting, rental boating, floats, commercial swimming pools), movie theaters, and concerts are prohibited during the pendency of this ordinance.

Article 4.

In addition to the foregoing, it is deemed to be determined by the Board of Commissioners that Short-Term Rentals, Hotels and Bed & Breakfast Businesses (collectively “Tourism Rentals”) are businesses that facilitate non-residents of the Fannin County (a) being able to stay overnight in groups that are often in excess of the number prohibited by the Governor; (b) purchase goods and services while mingling with residents of the Fannin County,

Georgia; (c) otherwise posing a high-risk, however unwillingly, of transmitting COVID-19 from other jurisdiction to residents of Fannin County and (d) falling ill while staying in said Vacation Rentals and potentially causing an unbearable and unstainable strain to Fannin County's health care system and public safety personnel. Fannin County relies on and is designed to accommodate tourist and tourist in non-pandemic situations. However, in a pandemic situation, public health and safety must be protected. Therefore, the following shall immediately go into effect following adoption of this Ordinance:

- (1) Any person who is a resident of a State, County or County subject to a stay-at-home Order or stay-at-home restriction and who is not currently physically present in Fannin County Georgia shall not be allowed to enter the County limits during the period this Ordinance is in effect. This shall not prohibit vehicular traffic that remains on state or federal highways within the County limits and does not voluntarily stop within the County limits.
- (2) All Tourism Rentals are hereby declared Non-Essential Businesses and must immediately cease all operations except Minimum Basic Operations as hereinafter defined.
- (3) Any customer currently occupying (currently physically present) a Tourism Rental under a paid reservation tendered prior to March 25, 2020 shall be allowed to complete the original reservation period but shall not be allowed to extend.
- (4) All other customers must vacate the Tourism Rental within forty-eight (48) hours of this Ordinance going into effect.
- (5) No Tourism Rentals shall accept reservations during this state of emergency and is hereby put on notice that each Tourism Rental should alert any potential customer that there is a chance the provisions of this Ordinance may be extended.
- (6) Nothing herein shall prohibit a Tourism Rental business from renting to a resident of Fannin County, Georgia who certifies in writing that the rental is (a) to facilitate compliance with this Ordinance or any Order issued by the President of the United States or the Governor or any of their agencies or departments and (b) that the Tourism Rental will only be occupied by residents of Fannin County, Georgia.
- (7) Further, Tourism Rentals rented and occupied solely by public safety or health care professionals [immediate family members of the same are also allowed] who are working within the County or within an immediately adjacent county are expressly exempt from the prohibition on rental contained herein.
- (8) Any violation of this Section shall be punishable as set forth herein and general law and shall be, at the appropriate time and after appropriate due process, grounds for termination of any business license/occupational tax certificate held by any Tourism Rental business.
- (9) Any aggrieved Tourism Rental business or party may appeal, on a case by case

basis, the application of this Section to said business or party by filing an appeal with the Superior Court of Fannin County, Georgia but, consistent with O.C.G.A. § 38-3-51(i)(F)(2)(B), any appeal shall not stay the application of this Section. Other than this limited right to appeal, this Section does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the Fannin County, Georgia, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Article 5

The Director of Fannin County’s Emergency Management Service is hereby authorized to activate a curfew upon:

- (1) Notification to the Fannin County Board of Commissioners of the need for the implementation of a curfew at least 24 hours before implementing.
- (2) Notification to the public via the Fannin County “nixle” system at least 12 hours prior to the implementation of the same.
- (3) If enacted, a curfew would be imposed from 9:00 p.m. to 5:00 a.m. 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 or working for Essential Businesses, such as, without limitation, (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.

Article 6

Violation of any term or provision of this Ordinance shall be punishable by a civil fine of \$1,000 per violation. Any day that a Tourism Rental is conducted during the pendency of this ordinance shall be and is a separate violation. For the purpose of this ordinance, the property

owner shall be and is the responsible party for the purpose of jurisdiction and liability. This does not prohibit any law enforcement officer from charging any violator with violations of other applicable Federal, State or local laws.

Article 7

Pursuant to O.C.G.A. § 38-3-28 and other applicable law, all laws, ordinances, rules and regulations, or any parts thereof, in conflict with the provisions of this Ordinance are hereby suspended during the effective dates of this Ordinance (or any extension thereof) and the terms and provisions of this Ordinance shall govern. This Ordinance does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the Fannin County, Georgia, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Article 8

If any paragraph, subparagraph, sentence, clause, phrase or any other portion of this Ordinance should be declared invalid or unconstitutional by any Court of competent jurisdiction or if the provisions of any part of this Ordinance as applied to any particular person, situation or set of circumstances is declared invalid or unconstitutional, such invalidity shall not be construed to affect the provisions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared to be the legislative intent of the Board of Commissioners of Fannin County, Georgia to provide for separate and divisible parts and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

This Ordinance shall become and is effective following the approval of the Fannin County Board of Commissioners held at 4:00 PM on the 25th day of March, 2020 and shall remain in effect until 11:59 PM on April 13, 2020 or until extended, rescinded, superseded or amended in writing by the Fannin County Board of Commissioners.

So ORDRED and ORDAINED on this the 25th day of March, 2020.

R. Stanley Helton, Chairman

Earl Johnson, Post One Commissioner

Glenn Patterson, Post Two Commissioner

Attest:

County Clerk

County Seal

Fannin County Emergency Declaration
Emergency Ordinance No. 2020-1
COVID-19

