

**MEMORANDUM**

**To:** Mayor and City Council  
**From:** Cecil G. McLendon, Jr., City Attorney  
**Date:** March 23, 2020  
**Subject:** **Proposed Revisions to Emergency Ordinance**

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At the request of the City Council we have evaluated the proposed regulations regarding Massage, Manicure, Hairstyling and Personal Care Services, and Event Facilities.

Based upon council comments, analysis, and review of the provisions being passed by similar jurisdictions, please find attached a document entitled Potential Revisions to Emergency Ordinance.

This document includes: (1) revised language for the Emergency Ordinance header should we choose to adopt changes; (2) revisions to the Massage, Manicure, Hairstyling and Personal Care Services, and Event Facilities; and (3) an informational section showing provisions being adopted in the state.

Should the Mayor and Council desire to adopt one or more of the potential provisions, we just need to amend the existing ordinance adding or substituting the new language.

**Attachments**

1. Potential Revisions to Emergency Ordinance
2. Current Restated and Amended Emergency Ordinance passed March 20, 2020

**STATE OF GEORGIA  
CITY OF DUNWOODY**

**ORDINANCE 2020-03-XX**

**A RESTATEMENT AND AMENDMENT OF EMERGENCY ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF DUNWOODY, GEORGIA, UNDER SECTION 1.03 OF THE CHARTER OF THE CITY OF DUNWOODY, GEORGIA, DECLARING LOCAL EMERGENCY OF THE NOVEL CORONAVIRUS DISEASE 2019 GLOBAL PANDEMIC, AND FOR OTHER PURPOSES**

**WHEREAS**, the Mayor and Council of the City of Dunwoody, Georgia ("City"), are charged with the protection of the public health, safety, and welfare of the citizens of the City; and

**WHEREAS**, Section 1.03 of the Charter of the City of Dunwoody, Georgia ("City Charter"), empowers the Mayor and City Council to establish procedures for determining and proclaiming that an emergency situation exists within or without the City, and to make and carry out all reasonable provisions deemed necessary to deal with or meet such an emergency for the protection, safety, health or well-being of the citizens of the City; and

**WHEREAS**, the World Health Organization has declared the novel coronavirus known as COVID-19 as a global pandemic ("COVID-19 Pandemic"); and

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

**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; and

**WHEREAS**, the novel coronavirus disease 2019 global pandemic is a public emergency affecting and threatening the safety, health and well-being of the citizens of the City; and

**WHEREAS**, to prevent or minimize injury to people resulting from this event, certain actions are required; and

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and City Council of the City of Dunwoody, Georgia ("City Council"), that:

**SECTION 1.** The City Council hereby declares that a state of emergency exists within the City affecting the safety, health and well-being of citizens due to the novel coronavirus disease 2019 global pandemic ("COVID-19 Pandemic").

**SECTION 2.** The following provisions shall govern the operation of the City during the COVID-19 Pandemic:

2.1 Essential Services Continued. The operation of essential services including, but not limited to, those related to public safety and health, as determined now or hereafter by the City Council, shall continue during the COVID-19 Pandemic.

2.2 Public Hearings/Meetings of City-Affiliated Entities. All public hearings and meetings of City-affiliated boards, committees, commissions and zoning and administrative entities of the City, such as the Planning Commission, Board of Zoning Appeals, are hereby suspended until this Ordinance, or any re-enaction hereof, is

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repealed or expires. At the termination of this Ordinance, the scheduling of hearings shall resume in the ordinary course of business, barring further extension of this Ordinance.

2.3 Matters Requiring Public Hearing. All matters requiring a public hearing, including but not limited to zonings, special use permits, variances, and regulatory permits (i.e., alcohol) are hereby stayed while this Ordinance is in effect. At the termination of this Ordinance, the scheduling of hearings shall resume in the ordinary course of business, barring further extension of this Ordinance. City staff are directed to work with applicants and those otherwise affected by this stay to ensure that financial impact and/or disruptions to business function is kept to a minimum.

2.4 Existing Regulatory Permits. If there are in effect existing regulatory permits that require a public hearing prior to renewal or extension, and that will lapse in the absence of such renewal or extension, then such permits shall be extended and remain in full force and effect until such time as public hearings are resumed.

2.5 City Council Operations. 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.
- (b) 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.

2.6 Re-Enaction or Repeal of Ordinance. On or before the thirtieth (30th) day after the date this Ordinance, or any re-enaction hereof, is adopted, the City Council shall convene on the call of the Mayor and one (1) councilmember, or three (3) councilmembers of the City Council to re-enact or repeal this Ordinance.

**SECTION 3.** The City strongly urges all citizens to review and comply with:

3.1 CDC Guidelines for Coronavirus, as they may evolve during the course of the COVID-19 Pandemic, found at <https://www.cdc.gov/coronavirus/2019-nCoV/index.html>;

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and

3.2 The President's Coronavirus Guidelines for America, as they may evolve during the course of the COVID-19 Pandemic, found at [https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20\\_coronavirus-guidance\\_8.5x11\\_315PM.pdf](https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20_coronavirus-guidance_8.5x11_315PM.pdf); and

3.3 State of Georgia Guidelines for Coronavirus through the Georgia Department of Public Health, as they may evolve during the course of the COVID-19 Pandemic, found at <https://dph.georgia.gov/novelcoronavirus>.

**SECTION 4.** The City Council hereby ordains that the City strongly advises all businesses to follow the below requirements as of this adoption of this Ordinance, and further ordains that as of 9:00 p.m. Friday, March 20, 2020, the following requirements shall become effective, in full force, and mandatory for all businesses subject to these requirements:

4.1 Restaurants and Businesses that sell food or beverages for consumption on premises:

4.1(a) All restaurants or businesses who sell food or beverages for consumption on premises shall be closed to in-person dining, consumption of alcohol, or other business activities until the expiration of this declaration of emergency; provided that this requirement shall not apply to any retail grocery stores so long as they have discontinued and closed any areas designated for the consumption of food on the premises.

4.1(b) Restaurants or businesses who sell food may offer food for take-away or for customers to eat somewhere other than at the establishment.

4.1(c) Businesses affected by these closures shall establish systems that ensure that all onsite consumption of food is prohibited, and that patrons, employees and contractors of the business maintain at least 6 feet of personal distance between themselves as much as possible given the physical constraints of the premises.

4.1(d) If a restaurant is licensed by the City of Dunwoody to sell beer and wine for on-premises consumption, such business during the efficacy of this declaration only, shall be authorized to sell unopened bottles of beer or wine for take-out consumption off-premises. Any alcohol licensee who engages in a course of conduct permitted under this ordinance does so at the licensee's own peril as it concerns the licensee's state liquor license. This ordinance makes no representation as to the legality, under state law and state alcohol licenses, of any course of conduct undertaken pursuant to this ordinance.

4.2 Gyms, Studios, or Sports Clubs offering use of Exercise Equipment, Shared Activity Spaces, or Close Contact Sports

4.2(a) Due to the joint use of equipment and spaces, and close proximity required to deliver both exercise facilities, shared studios, and close contact sports, the same being in contravention to the public health, safety and welfare due to the nature of this emergency, Gyms, Studios, or Sports Clubs offering use of exercise equipment and spaces, or close contact sports shall discontinue business until this emergency declaration is terminated.

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**4.3 Cafeterias in Hospitals, Nursing Homes, or Similar Facilities**

4.3(a) Cafeterias in hospitals, nursing homes, or similar facilities shall not be subject to the restrictions contained in this Ordinance and may continue normal operations, controlled by the rules and regulations applied thereto by the State of Georgia.

**SECTION 5.** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**SECTION 6.** If any section, subsection, provisions, or clause of any part of this Ordinance shall be declared invalid or unconstitutional, or, if the provisions of any part of this Ordinance as applied to a particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid. It is hereby declared as the intent of the City Council that this Ordinance would have been adopted in its current form without the invalid or unconstitutional provision contained herein.

**SECTION 7.** This Ordinance shall become effective immediately upon adoption.

**SECTION 8.** This Ordinance shall automatically stand repealed thirty (30) days after the date upon which it is adopted, unless re-enacted as provided herein.

**SECTION 9.** This Ordinance may be re-enacted for one (1) or more additional periods of thirty (30) days (or repealed) upon a meeting of the City Council called by the Mayor and one (1) councilmember, or three (3) councilmembers of the City Council.

**SO ORDAINED** this \_\_\_\_ day of **March 2020**, by the Mayor and Council of the City of Dunwoody, Georgia.

**CITY OF DUNWOODY, GEORGIA**

By: \_\_\_\_\_  
Lynn Deutsch, Mayor

Attest:

\_\_\_\_\_  
City Clerk

(SEAL)

Proposed Amendment No. 1

**A RESTATEMENT AND AMENDMENT OF EMERGENCY ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF DUNWOODY, GEORGIA, UNDER SECTION 1.03 OF THE CHARTER OF THE CITY OF DUNWOODY, GEORGIA, DECLARING LOCAL EMERGENCY OF THE NOVEL CORONAVIRUS DISEASE 2019 GLOBAL PANDEMIC, AND FOR OTHER PURPOSES**

Proposed Amendment No. 2

**SECTION 4.** Whereas Sections 4.1, 4.2 and 4.3 of this Section became effective as of 9:00 p.m. Friday, March 20, 2020, the Mayor and City Council now further ordain that as of 12:01 a.m. Tuesday, March 24, 2020, Sections 4.4 and 4.5 below shall become effective, in full force, and mandatory for all businesses subject to these requirements:

**4.1 Restaurants and Businesses that sell food or beverages for consumption on premises:**

4.1(a) All restaurants or businesses who sell food or beverages for consumption on premises shall be closed to in-person dining, consumption of alcohol, or other business activities until the expiration of this declaration of emergency; provided that this requirement shall not apply to any retail grocery stores so long as they have discontinued and closed any areas designated for the consumption of food on the premises.

4.1(b) Restaurants or businesses who sell food may offer food for take-away or for customers to eat somewhere other than at the establishment.

4.1(c) Businesses affected by these closures shall establish systems that ensure that all onsite consumption of food is prohibited, and that patrons, employees and contractors of the business maintain at least 6 feet of personal distance between themselves as much as possible given the physical constraints of the premises.

4.1(d) If a restaurant is licensed by the City of Dunwoody to sell beer and wine for on-premises consumption, such business during the efficacy of this declaration only shall be authorized to sell unopened bottles of beer or wine for: (1) take-out consumption off-premises, or (2) delivery of the same to any address in the City of Dunwoody. Any alcohol licensee who engages in a course of conduct permitted under this ordinance does so at the licensee's own peril as it concerns the licensee's state liquor license. This ordinance makes no representation as to the legality, under state law and state alcohol licenses, of

any course of conduct undertaken pursuant to this ordinance.

#### **4.2 Gyms, Studios, or Sports Clubs offering use of Exercise Equipment, Shared Activity Spaces, or Close Contact Sports**

4.2(a) Due to the joint use of equipment and spaces, and close proximity required to deliver both exercise facilities, shared studios, and close contact sports, the same being in contravention to the public health, safety and welfare due to the nature of this emergency, Gyms, Studios, or Sports Clubs offering use of exercise equipment and spaces, or close contact sports shall discontinue business until this emergency declaration is terminated.

#### **4.3 Cafeterias in Hospitals, Nursing Homes, or Similar Facilities**

4.3(a) Cafeterias in hospitals, nursing homes, or similar facilities shall not be subject to the restrictions contained in this Ordinance and may continue normal operations, controlled by the rules and regulations applied thereto by the State of Georgia.

#### **4.4 Establishments offering Massage, Manicure, Hairstyling, or Personal Grooming Services**

4.4(a) Due to the close proximity required to deliver Massage, Manicure, Hairstyling, or Personal Grooming services the same being in contravention to the public health, safety and welfare due to the nature of this emergency, establishments providing Massage, Manicure, Hairstyling, or Personal Grooming services shall discontinue business until this emergency declaration is terminated.

4.4(b) Massage provided by medical doctors, chiropractors or licensed physical therapists for medical purposes shall not be subject to restrictions contained in this Section 4.4.

#### **4.5 Event Facilities and Event Spaces**

4.5(a) Due to the nature of events and the potential close proximity of participants and enclosed nature of many event facilities and event spaces, the same being in contravention to the public health, safety and welfare due to the nature of this emergency, Event Facilities or Event Spaces capable of hosting gatherings of more than ten (10) persons shall discontinue business until this emergency declaration is terminated;

4.5(b) For any business: (1) maintaining as an Event Facility or Event Space as ancillary use of its business; and (2) where the primary business is not otherwise prohibited from operating pursuant to this Emergency Declaration or other laws or regulations, such business shall not be subject to closure restrictions contained in this Section 4.5 so long as the Event Facility or Event Space is closed and not be available for business. An sample of such business is a hotel with a ballroom or a restaurant with an event space.

