

PASSED: March 25, 2020

AN EMERGENCY ORDINANCE NO. BR2020-11

EMERGENCY DECLARATION AND ORDINANCE

PURSUANT TO SECTION 3.18 OF THE CITY CHARTER

**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 has taken other steps and announced other guidelines designed to protect the American people from the spread of COVID-19; and

WHEREAS, the President of the United States, by and through the Internal Revenue Service, has suspended and extended certain federal tax deadlines; and

WHEREAS, the Governor of the State of Georgia declared a State Public Health Emergency on March 14, 2020 which was ratified by the Georgia General Assembly on March 16, 2020 by Joint Resolution; 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 reported to be 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 City of Blue Ridge, the State of Georgia and the United States;

WHEREAS, in the judgment of the Mayor and City Council members of the City of Blue Ridge, 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 Executive Order issued on March 23, 2020 did not include statewide application of certain measures that the Mayor and the City Council members deem necessary within the City of Blue Ridge’s 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, O.C.G.A. § 38-3-28 provides the political subdivisions of this State, such as the City of Blue Ridge, Georgia, with the authority to make, amend, and rescind such orders, rules, and regulations as may be necessary for emergency management purposes to be consistent with and 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, Section 3.18 of the City Charter provides in pertinent part that “to meet a public emergency affecting life, health, property, or public peace, the city council may convene on call of the mayor or two councilmembers and may promptly adopt an emergency ordinance, but such ordinance shall not levy taxes; grant, renew, or extend a franchise; regulate the rate charged by any public utility for its services; or authorize the borrowing of money except for loans to be repaid within 30 days...an emergency ordinance may be adopted, without or without amendment, or rejected at the meeting at which it is

introduced...it shall become effective upon adoption or such later time as it may specify [and] every emergency ordinance shall automatically stand repealed 30 days following the date upon which it is enacted, but this shall not prevent reenactment...if the emergency continues to exist;

NOW, THEREFORE, IT IS HEREBY DECLARED that special circumstances have occurred and a local state of emergency exists within the City of Blue Ridge, Georgia and shall continue until the conditions requiring this declaration are abated.

THEREFORE, IT IS ORDERED AND ORDAINED BY THE AUTHORITY OF THE MAYOR AND CITY COUNCIL MEMBERS OF THE CITY OF BLUE RIDGE, GEORGIA AS FOLLOWS:

Section 1. Findings of Fact

For purposes of describing the specific circumstances which warrant the adoption of an emergency ordinance, the Mayor and the City Council Members of the City of Blue Ridge, Georgia hereby adopt and make the findings included in the “WHEREAS” clauses above as findings of fact.

Section 2. Declaration of Public Health State of Emergency

The Mayor and City Council Members of the City of Blue Ridge, Georgia hereby declare a public health state of emergency within the City of Blue Ridge, 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 15, 2020 unless extended or repealed.

Section 3. 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 more than five 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.

Section 4. Water and Sewer Services

For the duration of the declared emergency, the City will not disconnect any water or sewer service provided by the City for non-payment. After the conclusion of the declared emergency, persons will have a period of thirty days to make such payments before service may be disconnected.

Section 5. Temporary Closure of Non-Essential Businesses

All businesses with a facility or location in the territorial jurisdictional limits of the City of Blue Ridge, Georgia, except Essential Businesses as defined herein, are required to cease all activities at facilities or locations located therein except Minimum Basic Operations, as defined herein. For clarity, businesses may also continue operations consisting exclusively of employees or contractors performing activities at their own residences (i.e., working from home). All Essential Businesses are strongly encouraged to remain open. To the greatest extent feasible, Essential Businesses shall comply with social distancing requirements imposed by the Governor in his Executive Order issued on March 23, 2020, and in addition, by maintaining a six-foot social distancing for both employees and members of the public, including, but not limited to, when any customers are standing in line (“Social Distancing Requirements”). Additionally, all Essential Businesses that have locations open to customers must post signage on entrance doors informing customers 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 location/establishment at any one time if such social distancing cannot be maintained.

For the purposes of this Ordinance, covered businesses include any for-profit, non-profit, or educational entities, partnerships, joint ventures and sole proprietorship, regardless of the nature of the service, the function they perform, or its corporate or entity structure. For the purposes of this Ordinance, "Minimum Basic Operations" include the following, provided that employees comply with Social Distancing Requirements as defined in this Section, to the extent possible, while carrying out such operations (a) the minimum necessary activities to maintain the value of the business's inventory, ensure security, process payroll and employee benefits, or for related functions; and (b) the minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences. For the purposes of this Ordinance, "Essential Businesses" means:

1. Healthcare Operations and essential infrastructure;
2. Grocery stores, farmer’s 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;
3. Food cultivation, including farming, livestock, and fishing;
4. Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals;

5. Newspapers, television, radio, and other media services;
6. Gas stations and auto-supply, auto repair, and related facilities;
7. Banks and related financial institutions and pawn shops;
8. Hardware stores;
9. 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;
10. Businesses providing mailing and shipping services, including post office boxes;
11. 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;
12. Laundromats, dry cleaners, and laundry service providers;
13. 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.
14. Businesses that supply products needed for people to work from home;
15. Businesses that supply other essential businesses with the support or supplies necessary to operate;
16. Businesses that ship or deliver groceries, food, goods or services directly to residences;
17. Home-based care for seniors, adults, or children;
18. Residential facilities and shelters for seniors, adults, and children;
19. Professional services¹, such as legal, or accounting services;
20. Childcare facilities;
21. Construction services; and
22. 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

¹ Those requiring a license.

local infrastructure for computing services, business infrastructure, communications, and web-based services).

Section 6: Temporary Suspension of
Short-Term Rentals, Hotels and Bed & Breakfast Businesses

In addition to the necessary public health precautions set forth in this Ordinance and in Section 5 of this Ordinance, it is hereby found that Short-Term Rentals, Hotels and Bed & Breakfast Businesses (collectively “Tourism Rentals”) are businesses that facilitate non-residents of the City of Blue Ridge and 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 City of Blue Ridge, Georgia; (c) otherwise posing a high-risk, however unwillingly, of transmitting COVID-19 from other jurisdiction to residents of Fannin County and the City of Blue Ridge and (d) falling ill while staying in said Vacation Rentals and potentially causing an unbearable strain to Fannin County’s and the City’s health care system and public safety personnel. Accordingly, while the City greatly appreciates the Tourism Rental businesses and their customers, public health and safety must be protected and so the following shall immediately go into effect following adoption of this Ordinance:

(1) All Tourism Rentals are hereby declared Non-Essential Businesses and must immediately cease all operations except Minimum Basic Operations as defined in Section 5. Any customer currently occupying a Tourism Rental under a paid reservation tendered prior to March 23, 2020 shall be allowed to complete the original reservation period but shall not be allowed to extend. All other customers must vacate the Tourism Rental within forty-eight (48) hours of this Ordinance going into effect.

(2) 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.

Provided, however, this Section shall not prohibit a Tourism Rental business from renting to a resident of Blue Ridge, Georgia or 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 the City of Blue Ridge, Georgia or Fannin County, Georgia.

Further, Tourism Rentals rented and occupied solely by public safety or health care professionals [immediate family members are allowed] who are working within forty (40) miles of Blue Ridge, Georgia are expressly exempt from the prohibition on rental contained within this Section.

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.

Only applicable to this Section, 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 City of Blue Ridge, Georgia, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Section 7. Tolling of Deadlines/Penalties/Interest

Any deadlines for the purchasing or obtaining by persons or businesses of occupational tax certificates, filing of returns, payment of taxes, permits or similar civil approvals mandated by the City of Blue Ridge, Georgia 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 of Blue Ridge, Georgia are tolled for the duration of the emergency as established herein, and for 15 days thereafter. Moreover, penalties or interest that would normally be assessed shall also be tolled for the duration of the emergency and for 15 days thereafter.

Section 8. Classification of City Services

For the duration of the declared emergency, the Mayor, with the advice and consent of the Mayor Pro-Tem, shall be vested with the following additional 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 her discretion to permit employees to telework as advised by the Governor.
- (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 Mayor redirects the employee to other services.

- (e) To contract for and expend non-budgeted sums and services, as may in 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 promptly reported to all members of the City Council.
- (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 10. Emergency Interim Successor to Mayor

The governing authority desires to make certain that the chain of authority within City of Blue Ridge, Georgia is clear. If the Mayor is unable to perform her duties due to incapacitation or illness quarantine, then the Mayor Pro Tem is designated as the emergency interim successor pursuant to O.C.G.A. § 38-3-50 and shall assume the duties of the Mayor. Should the emergency interim successor be unable to perform those duties, the City Council shall appoint a member of the City Council to assume those duties.

Section 11. Eating Establishments/Closure of Bars

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.

Any restaurant that is currently licensed to sell beer and wine for on-premises consumption, such business shall be authorized to sell unopened bottles, cans, or other sealed containers of beer or wine for take-out consumption off-premises. For clarity, this means that licensed restaurants [not Bars] may basically conduct similar sales to grocery stores located within the City of Blue Ridge and, under no circumstances, does this permit the sale of open containers by any business and such a violation will be prosecuted to the full extent of State and local law.

Consistent with an Executive Order of the Governor, any business which possesses an occupational tax certificate or business license to operate as or otherwise meet the definition of “Bar” as defined by O.C.G.A. 3-1-2(2.1) shall cease operation while this Ordinance [and/or an Executive Order] is in effect.

Section 12. Curfew/Shelter in Place

A curfew is imposed from 9:00 p.m. to 5:00 a.m. effective 9:00 p.m. March 26, 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 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.

13. Shelter in Place

Pursuant to this Section, all individuals currently living within the territorial jurisdictional limits of the City of Blue Ridge, Georgia are ordered to stay at their place of 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 feet from any other person when they are outside their residence. All persons may leave their residences only for Essential Activities, Essential Governmental Functions, or to operate or work at Essential Businesses, all as defined in this Ordinance.

For purposes of this Ordinance, individuals may leave their residence only to perform any of the following "Essential Activities." However, people at high risk of severe illness from COVID-19 and people who are sick are urged to stay in their residence to the extent possible except as necessary to seek medical care and to comply with any applicable Executive Order.

Essential Activities shall mean:

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, such as, by way of

example only and without limitation, canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products, and products necessary to maintain the safety, sanitation, and essential operation of residences.

c. To engage in outdoor activity, provided the individuals comply with Social Distancing Requirements as defined in this Section, such as, by way of example and without limitation, walking, hiking, fishing or running.

d. To perform work providing essential products and services or working at an Essential Business or to otherwise carry out activities specifically permitted in this Order, including Minimum Basic Operations.

e. To care for a family member or pet in another household.

For purposes of this Section, individuals may leave their residence to work for or obtain services at any "Healthcare Operations" including hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers, or any related and/or ancillary healthcare services. "Healthcare Operations" also includes veterinary care and all healthcare services provided to animals. This exemption shall be construed broadly to avoid any impacts to the delivery of healthcare, broadly defined. "Healthcare Operations" does not include fitness and exercise gyms and similar facilities.

For purposes of this Ordinance, individuals may leave their residence to provide any services or perform any work necessary to the operations and maintenance of Essential Infrastructure, including, but not limited to public works construction, airport operations, 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)("Essential Infrastructure"), provided that they carry out those services or that work in compliance with Social Distancing Requirements as defined herein, to the extent possible.

For purposes of this Ordinance, all first responders, emergency management personnel, emergency dispatchers, court personnel, and law enforcement personnel, and others working for or to support Essential Businesses are categorically exempt from this Order. Further, nothing in this Order shall prohibit any individual from performing or accessing "Essential Governmental Functions." Essential Governmental Functions means all services needed to ensure the continuing operation of the government agencies and provide for the health, safety and welfare of the public. All Essential Governmental Functions shall be performed in compliance with Social Distancing Requirements as defined this Section, to the extent possible.

Section 14. Procurement

The City of Blue Ridge, Georgia hereby suspends the bid and competitive portions of the City's Procurement Policy or ordinances and authorize the Mayor, with the advice and consent of the Mayor Pro-Tem, to utilize the single-source policy and to require departments to provide a written justification for the single-source procurement during the effective dates of this Ordinance and/or utilize any emergency procurement provisions contained therein. However, the Mayor and Mayor Pro-Tem shall have the express responsibility to seek the best prices during the state of emergency.

Section 15: Prohibited Visitors

No person who is a resident of a State, County or City subject to a stay-at-home Order or stay-at-home restriction and who is not currently physically present in Blue Ridge, Georgia shall be allowed to enter the City limits during the period this Ordinance is in effect. This shall not prohibit vehicular traffic that remains on state or federal highways within the City limits and does not voluntarily stop within the City limits. For purposes of this Section, all first responders, emergency management personnel, emergency dispatchers, court personnel, and law enforcement personnel performing their official duties are categorically exempt.

Section 16. Violation

Violation of any term or provision of this Ordinance shall be punishable by a civil fine of \$1,000 per violation. This does not prohibit any law enforcement officer from charging any violator with violations of other applicable Federal, State or local laws.

Section 17. Waiver of 48 Hour Notice/Open Meetings/Records

To allow for expedient response to rapidly changing circumstances, the Mayor and each Council Member expressly waives in writing herein forty-eight hour notice of any specially called meeting to extend this Ordinance or take action in response to this public health emergency. However, the same notice required by State law applicable to Open Meetings Act shall be provided to the Mayor and Council Members for any specially called meeting, including the provisions of O.C.G.A. 50-14-1(d)(3). Notwithstanding this Section, notice of any specially called meeting may be waived in writing by the Mayor and Council Members or as otherwise provided in the City Charter.

Any requests under O.C.G.A. § 50-18-70 shall be responded to in a reasonable time and manner, however, any in-person record production is hereby suspended during the pendency of this Ordinance.

Section 18. Ordinance Governs

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 City of Blue Ridge, Georgia, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Section 19: Severability

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 City Council of the City of Blue Ridge, 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 after adoption by the City Council and upon approval by the Mayor shall become effective immediately.

SO ORDAINED, this 25 day of March, 2020

BLUE RIDGE CITY COUNCIL

By: Donna White
Mayor

Attest Ordinance Passed: March 25, 2020

Attest:

/s/ Kelsey Ledford
City Clerk Kelsey Ledford