

**ORDINANCE NO. 008-20**

**AN EMERGENCY ORDINANCE CONCERNING THE  
CORONAVIRUS (COVID-19) PUBLIC HEALTH EMERGENCY**

**WHEREAS**, President Donald Trump has declared a state of emergency based on the impact of Coronavirus (COVID-19) becoming a pandemic event; and

**WHEREAS**, on March 13, 2020, Kay Ivey, Governor of the State of Alabama, declared a statewide state of emergency in response to Coronavirus (COVID-19); and

**WHEREAS**, the World Health Organization has declared the Coronavirus (COVID-19) to be a worldwide pandemic; and

**WHEREAS**, the Coronavirus (COVID-19) has been confirmed to exist in Lee County, Alabama; and

**WHEREAS**, the City Council (the “Council”) of the City of Opelika (the “City”) confirms that protecting the public health is the Council’s top priority; and

**WHEREAS**, the Council is empowered under Alabama law to do all acts and make all regulations which may be necessary or expedient for the promotion of the safety, health and welfare of the community; and

**WHEREAS**, the Council, on advice of Emergency Management Personnel, determines to take action in this emergency circumstance on a continuing basis to address the COVID-19 impacts on our City and community and to further declare a state of emergency in Opelika, Alabama; and

**WHEREAS**, it is vital that City emergency management personnel and other departments are authorized to expend City Funds for additional personnel, supplies and equipment as needed, so action can be taken as needed without delay to protect the lives and safety of our residents and visitors to our City; and

**WHEREAS**, COVID-19 poses a serious public health risk to our City stemming from it being a novel respiratory disease, impacting our City services, impacting utility department services, impacting our schools, impacting our businesses and impacting our manufacturing and industrial sector; and

**WHEREAS**, the extent and level of impact from COVID-19 cannot be determined at the present time, and City departments need the authority and funding to react promptly and without delay at this critical time; and

**WHEREAS**, the Council further finds and determines that the adoption of this Ordinance is proper under applicable law.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council (the “Council”) of the City of Opelika, Alabama (the “City”) as follows:

Section 1. Title. This Ordinance shall be known and may be cited as the “City of Opelika Emergency Coronavirus (COVID-19) Ordinance”.

Section 2. Intent. It is the intent of this Ordinance to provide the necessary organization, powers and authority to enable the timely and effective use of all available City resources to prepare for, respond to and recover from the declared local public health emergency. This Ordinance is intended to grant as broad a power as permitted under applicable Alabama law and the Mayor-Council form of government, and this Ordinance shall be interpreted with such intent.

Section 3. Public Health Emergency Declared. The Council hereby declares that a public health emergency relating to the Coronavirus (COVID-19) exists within the City. Such circumstance is referred to in this Ordinance as the “public health emergency”. The public shall be notified of this declaration through general dissemination to the news media, posting on the City’s website and other means of publicity intended to advise the general public.

Section 4. Duration of Declaration of Public Health Emergency. The declaration of public health emergency as provided in Section 3 of this Ordinance shall remain in effect until the Mayor declares the emergency has passed.

Section 5. Powers. Until the Mayor declares that the public health emergency has passed, the Mayor has full power and authority to take the following actions and issue the following orders:

- a. any action necessary for the protection of life and property, including, but not limited to, establishing regulations governing conduct related to the cause of the public health emergency.
- b. an order establishing curfew during such hours of the days or nights and affecting such categories of persons as may be designated.
- c. an order controlling, restricting, allocating or regulating the use, sale, production or distribution of food, water, clothing and other commodities, goods, services and resources.
- d. an order requiring the closing of businesses deemed non-essential by the Mayor.
- e. transfer the direction, personnel or functions of the City departments or agencies for the purpose of performing or facilitating public health emergency services.

- f. utilize all available resources of the City as may be reasonably necessary to cope with this public health emergency whether in preparation for, response to or recovery from this public health emergency.
- g. accept services, gifts, grants and loans, equipment, supplies and materials, whether from private, non-profit or governmental sources.
- h. make application for local, state or federal assistance.
- i. terminate or suspend any process, operation, machine, device or event that is or may negatively impact the health, safety and welfare of persons or property within the City.
- j. delegate authority to such City officials or employees as the Mayor determines necessary or expedient.
- k. limit the use of any City-owned building, facility or property as to time, manner and permitted activities, including, but not limited to, limiting the permissible number of people that may lawfully occupy such building or property at any one time.
- l. close and prohibit the use of any City-owned building, facility or property.
- m. order the quarantine of and restrict the movement of individuals that have been infected with or exposed to COVID-19.
- n. suspend or modify the provisions of any ordinance if strict compliance with such ordinance would in any way prevent, hinder or delay necessary action in coping with this public health emergency.
- o. close City streets and restrict parking on City streets or on City-owned property.
- p. coordinate with the Lee County Emergency Management Agency and other appropriate federal, state and local agencies.
- q. with the guidance of the Purchasing/Revenue Manager, Human Resources Director and the Controller, expend City funds and use additional personnel hours necessary to respond to the impacts of COVID-19 (some known and unknown) in the City and community.
- r. record the additional expenses incurred in the past and future as the result of the COVID-19 impacts and seek reimbursement to the extent authorized by federal and state laws.

Section 6. Enforcement Orders.

- a. The members of the City’s Police Department, code enforcement, and such other law enforcement and peace officers as may be authorized by the Mayor are hereby authorized and directed to enforce the orders, rules and regulations made or issued pursuant to this ordinance. All members of the public shall be deemed to have been given notice of all orders, rules and regulations made or issued pursuant to this ordinance upon their dissemination to the news media or publication on the City’s website or such other means of publicity.
- b. Until the Mayor declares that the public health emergency has passed, no person shall:
  - (1) enter or remain upon the premises of any establishment not open for business to the general public, unless such person is the owner or authorized agent of the establishment.
  - (2) violate the provisions of this ordinance.
  - (3) violate any orders duly issued by the Mayor or his designee pursuant to Section 5 of this ordinance.
  - (4) willfully obstruct, hinder or delay any duly authorized City officer, employee or volunteer in the enforcement or the exercise of the provisions of this ordinance, or the undertaking of any activity pursuant to this ordinance.
- c. It shall be unlawful and a misdemeanor offense for any person to violate any provision of this Section 6. Any person convicted of any violation of this Section shall be subject to the penalties set forth in Section 1-8 of the City Code.

Section 7. Authority to Enter Property. During the period of the public health emergency, a City employee or authorized agent may enter onto or upon private property if the employee or authorized agent has reasonable grounds to believe that there is a true emergency and immediate need of assistance for the protection of life or property and that entering onto the private property will allow the person to take such steps to alleviate or minimize the emergency or disaster or to prevent or minimize danger to the lives or property from the declared public health emergency.

Section 8. City Council Meetings and Meetings of Other Boards and Commissions.

- a. For the duration of the public health emergency, if a Council member reasonably determines that his or her personal attendance at a Council meeting would not be prudent, such Council member may listen by

telephone or other electronic means to any Council meeting. Such Council member listening by telephone or other electronic means may not participate or vote in any legislative matters. The Council may discontinue the use of electronic participation by one or more members during the meeting where participation results in delays or interference in the meeting process. Notwithstanding the above provisions, if state law changes, temporarily or permanently, to allow remote participation and voting by Council members via electronic means, then Council members not physically present at meetings shall be allowed to remotely participate in meetings and vote by use of electronic means in accordance with and to the extent authorized by state law in effect at the time of the meeting.

- b. Members of the public who have been diagnosed with COVID-19, who have family members who have been so diagnosed, who are showing symptoms of COVID-19, or who meet other reasonable criteria are prohibited from attending public meetings of the Council or public meetings of other City boards of commissions.
- c. The Mayor may impose reasonable rules such as seating arrangements and other meeting room logistics at all public meetings.
- d. For the duration of the public health emergency, the Mayor and Council shall postpone special recognitions of athletic teams, awards and other non-business items that bring larger numbers of citizens to Council meetings or other public meetings.
- e. The President of the Council is authorized to postpone public hearings previously scheduled for Council meetings and to shorten Council meetings by restricting business to only essential matters.

Section 9. Conflict With Other Laws. If any provision of this ordinance conflicts with federal or state laws, statutes, rules or regulations, such federal and state laws, rules or regulations shall control. If any provision of this ordinance conflicts with any other provision of the City Code, this ordinance shall control.

Section 10. Police Power Finding. The Council hereby finds, determines and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity and to improve the order, comfort and convenience of the City of Opelika and the inhabitants thereof.

Section 11. Emergency Declaration. The Council hereby finds, determines and declares that an emergency exists and that this Ordinance is necessary for the immediate preservation of public property, health, peace or safety for the reasons enumerated in the introductory paragraphs of this Ordinance which are incorporated in this Section 11 by reference. The Council hereby determines that the adoption of this Ordinance as an emergency ordinance is in the best interest of the citizens of the City of Opelika.

Section 15. Effective Date. This ordinance shall become effective and enforced immediately upon its adoption and publication as required by law.

Section 16. Publication. The City Clerk of the City of Opelika, Alabama is hereby authorized and directed to cause this Ordinance to be published one (1) time in a newspaper of general circulation published in the City of Opelika, Lee County, Alabama.

ADOPTED AND APPROVED this the 17<sup>th</sup> day of March, 2020.

/s/ Eddie Smith

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PRESIDENT OF THE CITY COUNCIL OF THE  
CITY OF OPELIKA, ALABAMA

ATTEST:

/s/ Russell A. Jones

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CITY CLERK

TRANSMITTED TO MAYOR on this the 18<sup>th</sup> day of March, 2020.

/s/ Russell A. Jones

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CITY CLERK

ACTION BY MAYOR

APPROVED this the 18<sup>th</sup> day of March, 2020.

/s/ Gary Fuller

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MAYOR

ATTEST:

/s/ Russell A. Jones

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CITY CLERK