



## **MAJOR POINTS FROM GOVERNOR KEMP'S 08.15.20.01 EXECUTIVE ORDER**

On August 15, 2020, Governor Kemp issued Executive Order 08.15.20.01 (hereinafter "the Order") which extends most of the already applicable rules enacted by the Governor until August 31, 2020 at 11:59 P.M., but also importantly adds provisions concerning local mask mandates. The Order lays out detailed provisions to govern the ongoing Public Health State of Emergency. In the Order, the Governor covered the following topics related to the Coronavirus public health emergency. ***(New provisions are bolded and italicized)***.

### **NEW DEFINITIONS (see pages 8-10 of the Order)**

The Order adds two definitions which were not found in any previous Executive Order, as follows:

1. ***"Local Option Face Covering Requirement" - means a requirement imposed by a municipal, county, or other government entity that individuals wear face masks or face coverings when not able to maintain Social Distancing from non-cohabitating persons that is permitted by the terms of [the Order].***
2. ***"Threshold Requirement" – means the prevalence in a county 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. (It should be noted that, since GPDH updates cases numbers daily at 3PM, the qualification of meeting this requirement might change on a daily basis.)***

### **LOCAL OPTION FACE COVERING REQUIREMENT (see pages 38-39 of the Order)**

The Governor has issued specific provisions in this Order concerning local face covering requirements. According to this Order, local governments may impose such as follows:

1. ***Local governments which had met the Threshold requirement are allowed to impose a Local Option Face Covering Requirement, but are not required to do so. (As of the writing of this summary, only Quitman County would fail to reach the Threshold requirement of Georgia's 159 counties, though Webster County, according to DPH data, does not have enough data to meet the threshold either even though the data presented shows it would meet the threshold requirement. Again, this can change daily.)***
2. ***If a local government decides to impose a face covering requirement it has to comply with the following:***
  - a. ***The requirement cannot be applied to people who are eating or drinking, who have difficulty putting on or taking off a face covering without assistance, those who have a religious objection, and those who have a medical reason for not wearing a face covering.***
  - b. ***Penalties (criminal or otherwise) cannot be imposed on any private business, establishment, corporation, non-profit corporation, or organization.***
  - c. ***The maximum penalty cannot be larger than \$50 per offense.***

- d. Enforcement can only be against individuals but, people who operate businesses and the businesses themselves cannot be held liable for failures of their customers to comply.*
  - e. The requirement cannot be enforced at any Polling Place.*
  - f. The requirement cannot be enforced against individuals on residential property.*
  - g. The requirement can be enforced against people on private property when the owner or occupant of the private party consents to enforcement. Such businesses, etc. can be required to post a reasonable public notice stating whether they consent to enforcement or does not consent to enforcement on its property.*
- 3. Local governments imposing a face covering requirement must warn noncompliant individuals about the health risks of not wearing a face covering prior to issuing a citation and shall make good faith efforts to distribute free masks to those who cannot afford a mask. If an individual is found in violation and cannot afford a mask, the local government must provide them a mask at the local government's expense.**
  - 4. Local governments have the authority to control the terms of entry onto property owned or leased by the local government regardless of whether the Threshold Requirement is met or not.**

**OTHER PROVISIONS SPECIFIC TO GOVERNMENTS (see pages 36-40 of the Order)**

Although it is vital that Local Government entities acquaint themselves with the complete substance of the order, some of the highlights for local governments are as follows:

1. Other than orders issued pursuant to the authority of Code Section 38-3-60 et seq. (Judicial Emergencies), local ordinances or resolutions requiring people to wear face coverings, masks, face shields, or any other Personal Protective Equipment while in places of public accommodation or on public property are suspended to the extent that they are more restrictive than this Order, **or “any such law, order, ordinance, rule, or regulation expressly permitted” by the Order.** (See p.38).
2. The requirement under Code Section 16-11-129 that renewals of weapons carry licenses and renewal licenses must be applied for within thirty (30) days after they expire is suspended for weapons carry licenses and renewal licenses which expire between February 13, 2020 and August 15, 2020. (See p.40).
3. Applications for renewals of such weapons carry licenses and renewal licenses will be considered to be for a renewal license if the holder of the weapons carry license or renewal license applies within 120 days after the expiration date on the license. If the Public Health State of Emergency is extended, this provision will apply to any weapons carry license or renewal license that expires during the Public Health State of Emergency. (See p.40).
4. For the purposes of Code Section 48-5-311(e)(6A), "in-person" appearances before county boards of equalization may occur via remote communications. This provision does not abrogate the requirement that county boards of equalization comply with the Georgia Open Meetings Act. Further, decisions of county boards of equalization may be transmitted electronically if all parties consent at the time of the hearing. (See p.36-37).
5. That any purported requirement under the laws of this state requiring original signatures and raised corporate seals related to construction surety bonds required various statutes and commercial surety bonds required or permitted under numerous other statutes are suspended for the limited purpose of providing that public procurement officers shall accept electronic signatures and electronic

corporate seals as provided by the provisions of law and any construction surety bond or commercial surety bond may be executed electronically if all the following requirements are met:

- a. The document is notarized pursuant to the requirements of Executive Order 04.09.20.01; and
  - b. If requested by the procurement officer, the original shall be provided within seven (7) business days. (See p. 37)
6. After providing reasonable notice and at least two citations for violations of O.C.G.A. §38-3-7, any Local government law enforcement officer is authorized to mandate the closure of any business, establishment, or corporation for failure to comply with the provisions of the Order for a period not to extend beyond the term of the Order. (See p. 47)
  7. Violation of the order is defined as a misdemeanor under O.C.G.A. §38-3-7. (See p. 47)
  8. The requirements of O.C.G.A. §§36-70-27 (which relates to limitations of funding for projects inconsistent with strategy) and 50-8-8 (which concerns grants, loans, and other disbursements of funds from the state community development program) are suspended to the extent that they would prevent local governments from being eligible to receive state funding for expenditures made during the current Public Health State of Emergency related to the prevention, treatment, or mitigation of COVID-19. (See p. 37)

## **SUMMARY OF KEY POINTS**

### **General highlights:**

- 1) The Order purports to suspend any state, county, or municipal law, order, ordinance, rule, or regulation that requires persons to wear face coverings, masks, face shields, or any other Personal Protective Equipment while in places of public accommodation or on public property ***except as specifically allowed in the Order itself*** (See p.38).
- 2) Schools are required to follow the 14 measures laid out on pages 29-30 which include, amongst other measures, reducing class sizes or moving classes to larger spaces as practicable. Schools are permitted to require workers and students to wear face coverings.
- 3) ***Through August 31, 2020***, the shelter in place will continue for those defined by the CDC as being high risk or suffering from a severe illness (see list on p. 10 of the order).
  - a. Those who continue to shelter in place can leave for the same reasons as before – to get food, medical assistance, outdoor exercise, etc.
- 4) ***Through August 31, 2020*** - Everyone (everywhere) must practice social distancing procedures as well as sanitation methods as prescribed by the CDC, and refrain from gathering as defined by the Order.
- 5) Everyone is strongly encouraged to wear a face mask when outside of their homes (except for when eating, drinking, or exercising outdoors).
- 6) The Order does not affect or alter court ordered visitation of minor children.
- 7) ***The Order expires August 31, 2020 at 11:59 P.M.***

### **Definitions:**

Definitions of terms used in this and previous orders, such as “Summer Camp”, “Social Distancing”, “Shelter in Place”, “Gathering” and “Critical Infrastructure” remain in place.

### **Critical and Non-Critical Infrastructure:**

- 1) **Critical Infrastructure** – the same provisions as were previously ordered apply – See pages 15-17 of the Order.
- 2) **Non-Critical Infrastructure** – the same provisions as were previously ordered apply - see pages 16-17 of the Order.
  - a. **\*\*Both Critical and Non-Critical Infrastructure should provide personal protective equipment as appropriate, sanitation and disinfectant products, and increase physical space between workers.**

### **Specific Businesses (which may also be critical or non-critical above)**

- 1) **Restaurants, dining Rooms, banquet facilities, private event facilities, and private reception venues where food is served** – May offer dine-in service only provided strict provisions are followed. Restaurants allowing dine-in service:
  - a. SHALL implement the 35 measures of the Order intended to mitigate the spread of COVID-19. (See pp.12-14).
  - b. Some, but not all, of the significant measures are:
    - i. Require Workers to wear face coverings while interacting with patrons.
    - ii. The language requiring restaurants to “[e]nforce Social Distancing of non-cohabitating persons” has been removed.
    - iii. The rules for the use of salad bars (see requirement #15).
    - iv. Restaurant or dining room playgrounds can be open provided they are cleaned and sanitized regularly if in use.
  - c. These requirements do not apply to dine-in services at hospitals, healthcare facilities, nursing homes, or other long-term care facilities.
- 2) Language and rules regarding retail and wholesale grocery stores remains in the Order.
- 3) **Food Establishments (grocery stores, convenience stores)** – have measures they must implement to the maximum extent practicable – Notable measures include:
  - a. The measures applying the grocery stores include only 11 provisions (see page 17-18).
  - b. Scheduling specific hours of operations for vulnerable populations; (This likely is in response to a specific GMA request.)
  - c. Reducing store hours for additional cleaning after hours; (This likely is in response to a specific GMA request.)
  - d. Enacting policies and procedures for social distancing – Plexiglass at registers; decals on floors; one-way aisles;
  - e. Providing personal protective equipment for workers;
  - f. Encouraging patrons to wear face coverings;
- 4) **Gyms and Fitness Centers** – in addition to the other measures applicable above (those in non-critical infrastructure) Gyms and Fitness Centers **must** implement 17 measures if they wish to reopen – See pages 18-19 of the Order. It appears that pools, basketball courts, tanning beds can be used, as long as there is no congregating and social distancing is enforced. Hot tubs, saunas, and steam rooms can

open. Group classes can be offered as long as participants stay at least 10 feet from one another and don't congregate. Child-care services can be provided, subject to rules relating to child-care facilities.

- 5) **Beauty Salons, Barbers, Body Art Studios, Massage Therapists etc.** – must implement (in addition to the non-critical infrastructure requirements) – the 11 mitigating measures found on pages 19-20 of the Order. Notable measures are: not allowing anyone symptomatic to enter, allow one patron per service provider at the time (parent may enter with child); stagger work schedules so that no more than 50% of service providers are present at the same time; workstations should be more than 10 feet apart; sanitize chairs, etc., between appointments.
- 6) **Theaters and Cinemas** – must implement the list of requirements for the “non-critical” list and implement additional measures found on pages 20-21 of the Order.
- 7) **Bowling Alleys** – must implement non-critical list and implement additional specific measures found on page 21 of the Order. If they have a food service area – they must adhere to the measures required for dine-in restaurants. Must sanitize equipment, balls, seats, devices between use. Playgrounds can be open.
- 8) **Bars** - 39 measures provided for on pages 21-24 of the Order must be followed. These measures include, but are not limited to:
  - a. Limiting the total number of persons in the bar to 50 people or 35% of the fire occupancy, whichever is greater.
  - b. Requiring workers to wear face coverings at all times.
  - c. Enforcing social distancing on non-cohabitating persons while on the premises.
  - d. Between patrons, sanitizing tables, digital ordering devices, check presenters, self-service areas, tabletops and commonly touched areas, and discard any single-use items.
  - e. Establishing seating areas to discourage loitering at the bar area.
  - f. Sanitizing the bar at least twice a day.
- 9) **Waterparks and Amusement Rides** (pp. 24 – 27)
  - a. Such locations must display signage, ground markers and provide training that proactively encourages Social Distancing
  - b. The location must place “signage at any entrance to instruct patrons that they cannot enter if they have been diagnosed with COVID-19, have Symptoms of COVID-19, or had contact with a person that has or is suspected to have COVID-19 within the past fourteen (14) days.”
  - c. The requirements:
    - For open-air rides where patrons are seated in cars, such as bumper cars, sky lifts, classic Ferris wheels, swing rides, and similar types of rides and attractions, only allowing persons in the same party to be seated together in each car;
    - For open-air rides where patrons are seated in an interspersed manner, such as carousels and similar types of rides and attractions, seating patrons so that there is at least six (6) feet between persons not in the same party;
    - For closed car rides, such as monorails, gondola-style Ferris wheels, and similar types of rides and attractions, only allowing persons in the same party to be seated together in each car or unit.

- d. Live Performance Venues at Amusement Parks may be open. (Requirements are listed in detail at Section IX.)

**Outdoor Workers** – People who work outdoors without regular contact with other people, such as delivery services, contractors, landscape businesses, and agricultural industry services, only need to Socially Distance “as necessary and practicable” (p. 27).

**Healthcare Providers** – are regulated on pages 27-28 of the Order. Most of the requirements for healthcare providers have been lifted. ***There are new provisions relating to Dentistry, however.***

### **Education and Children**

(Child Care Providers and Summer Camps) – (see pages 28-36 of the Order)

- a. Schools are required to follow the 14 measures laid out on pages 29-30 which include, amongst other measures, reducing class sizes or moving classes to larger spaces as practicable. Schools are not required to comply with the ban on Gatherings.
- b. The State Board of Education is required to provide rules, regulations, and guidance for the operation of public schools for local boards of education to depart from the strict interpretations of “school year,” “school month,” or “school day.”
- c. The prohibition on child-care facilities transporting children except from their residence to the facility has been lifted.
- d. School districts offering Summer School shall not be required to comply with the ban on gatherings.
- e. Child-care facilities must implement the non-critical infrastructure measures – and the 13 specific measures found on pages 30-31 of the Order.
  - i. Screen children for fever/illness.
  - ii. Prohibit entry if ill.
  - iii. Provide meals in classrooms rather than one large room.
  - iv. Restrict family member’s access to the building – either the main entry door only or the door to the classroom, as is practical.
  - v. Frequently clean touched surfaces.
  - vi. Use washable toys to the extent practical.
  - vii. Each child’s bedding must be kept separate and washed weekly – or before it is used on another child.
- f. The Order establishes 32 rules for Summer Camps (including Overnight Summer Camps) (33 for overnight Summer Camps) (pp. 31-34) in addition to the applicable requirements for non-critical infrastructure.
- g. Overnight Summer Camps are permitted to host Campers.
- h. A Camper or Worker at a Summer Camp or an Overnight Summer Camp with known exposure to COVID-19 shall not be allowed access to any Summer Camp or Overnight Summer Camp, including any facilities or activities, until at least fourteen (14) days have elapsed since the last known exposure.
- i. Overnight Campers and Workers are permitted to begin any Summer Camp unless they have received a negative test result for COVID-19 within twelve (12) days prior to beginning an Overnight Summer Camp.

- j. The Order states that “[t]o the extent that any provision of Section VII of this Order, titled "Education & Children," directly conflicts with any provision of Section VIII of this Order, titled "Governments," the provision in Section VII shall control.”
- k. ***There are new provisions relating to day camp programs.*** (See page 35)
- l. ***There are new provisions relating to Pre-K programs and supervised naps.*** (See page 36).

**Governments (Pages 36-40)**

1. Other than orders issued pursuant to the authority of Code Section 38-3-60 et seq. (Judicial Emergencies), local ordinances or resolutions requiring people to wear face coverings, masks, face shields, or any other Personal Protective Equipment while in places of public accommodation or on public property are suspended to the extent that they are more restrictive than this Executive Order ***unless specifically allowed in the Order.*** (See p.38).
2. The requirement under Code Section 16-11-129 that renewals of weapons carry licenses and renewal licenses must be applied for within thirty (30) days after they expire is suspended for weapons carry licenses and renewal licenses which expire between February 13, 2020 and August 15, 2020. (See p.40).
3. Applications for renewals of such weapons carry licenses and renewal licenses will be considered to be for a renewal license if the holder of the weapons carry license or renewal license applies within 120 days after the expiration date on the license. If the Public Health State of Emergency is extended, this provision will apply to any weapons carry license or renewal license that expires during the Public Health State of Emergency. (See p.40).
4. For the purposes of Code Section 48-5-311(e)(6A), "in-person" appearances before county boards of equalization may occur via remote communications. This provision shall be implemented consistent with Ga. Comp. R. & Regs. r. 560-11-12-.02, which requires hearings before county boards of equalization to "only be as formal as is necessary to preserve order and be compatible with the principles of justice." This provision does not abrogate the requirement that county boards of equalization comply with the Georgia Open Meetings Act. Further, decisions of county boards of equalization may be transmitted electronically if all parties consent at the time of the hearing.
5. Can enact ordinances for emergency management purposes and to supplement the carrying out of the Order – but cannot be more or less restrictive ***unless specifically provided for in the Order.*** “More or less restrictive” is not defined in the Order.
6. The Order provides “[t]hat any purported requirement under the laws of this state requiring original signatures and raised corporate seals related to construction surety bonds required under Code Sections 13-10-40- 65, 32-2-70, 36-91-1, 36-91-2, 36-91-50 and 36-91-70-93 and commercial surety bonds required or permitted under numerous other statutes are suspended for the limited purpose of providing that public procurement officers shall accept electronic signatures and electronic corporate seals as provided by the provisions of Code Sections 10-12-2 et seq. and 33-24-14 and any construction surety bond or commercial surety bond may be executed electronically if all the following requirements are met:
  - a. The document is notarized pursuant to the requirements of Executive Order 04.09.20.01; and
  - b. If requested by the procurement officer, the original shall be provided within seven (7) business days.

### **Sports & Live Performance Venues** (pp. 40-45)

The key points of this section are as follows:

1. Live Performance Venues may host events provided the requirements of Section IX are followed.
2. Drive-in performances are not subject to these requirements.
3. That in addition to the applicable requirements above for non-critical Infrastructure Live Performance Venues must follow extra measures which are determined based on a tiered classification. Live Performance Venues tiers are based upon the fire code capacity of the venue. Tier I shall include venues that can host 999 or fewer persons. Tier II shall include venues that can host between 1,000 and 4,999 persons. Tier III shall include venues that can host 5,000 or more persons. The calculation of the total number of persons shall include all persons, including Workers, that are present in a Live Performance Venue.
4. The Section then lists detailed requirements for each tier classification.
5. Professional sports will be required to follow the guidelines of their leagues, college and high school sports will be required to follow the guidelines of their conference or association, and amateur sports will be required to follow the guidelines of non-Critical Infrastructure organizations.

### **Conventions**

The key points of this section (pp. 45-47) are as follows:

1. Conventions may be held provided they conform to the requirements of Section X.
2. In addition to the applicable requirements above for non-critical Infrastructure, Conventions operating during the effective dates of the Order shall implement twenty-one (21) additional measures including, but not limited to:
  - a. Providing Hand Sanitizer for use by all individuals present
  - b. To the extent practicable, implementing one-way aisles to guide patron traffic through large areas of booths
  - c. Requiring all dining facilities to follow the criteria for restaurant dine-in services set forth in Section IV of this Executive Order titled "Restaurants & Dining Services"

### **Enforcement** (pp. 47)

1. Any law enforcement officer may, after providing reasonable notice and at least TWO citations for violations of O.C.G.A. § 38-3-7 – may be authorized to mandate the closure of any business, establishment, corporation for failure to comply with the provisions of the Order.
2. Violation of the Order is a misdemeanor under O.C.G.A. § 38-3-7.
3. No Judicial Order is affected by the Executive Order.