



MAJOR POINTS FROM GOVERNOR KEMP'S 05.28.20.01 and 05.28.20.02 EXECUTIVE ORDERS

On May 28, 2020, Governor Kemp issued Executive Orders 05.28.20.01 and 05.28.20.02. In Executive Order 05.28.20.01 Governor Kemp extended the Public Health State of Emergency through July 12, 2020. In Executive Order 05.28.20.02 (hereinafter "the Order") the Governor lays out detailed provisions to govern the ongoing Public Health State of Emergency. Executive Order 05.28.20.02 is **effective from June 1, 2020, until June 15, 2020**, unless otherwise stated. In the Order the Governor covered the following topics related to the Coronavirus public health emergency (*new or significantly revised provisions are shown in italics*):

- (Section I) General Provisions
- (Section II) Definitions of terms used in this and previous orders, such as "Summer Camp", "Social Distancing", "Shelter in Place", "Gathering" and "Critical Infrastructure".
"Gathering" is amended from previous Executive Orders to be defined as: "more than twenty-five (25) persons physically present at a Single Location if, to be present, persons are required to stand or be seated within six (6) feet of any other person. Therefore, groups of more than twenty-five (25) people are permitted if their grouping is transitory or incidental, or if their grouping is the result of being spread across more than one Single Location". This is an increase from ten (10) persons in previous Executive Orders. "Overnight Summer Camp" is defined in the 05.28.20.02 Executive Order to mean a Summer Camp where Campers stay overnight on the Summer Camp premises. This term shall not include those entities commonly referred to as "day camps". "Summer School" is defined in the 05.28.20.02 Executive Order to mean extended school year classes, credit recovery classes, and all other learning classes that are offered by schools or school districts between the 2019-2020 school year and the 2020-2021 school year. "Symptoms of COVID-19" is added in the 05.28.20.02 Executive Order to mean symptoms identified by the Centers for Disease Control and Prevention as symptoms of COVID-19 and shall include at least the following: fever or chills; cough; shortness of breath or difficulty breathing; fatigue; muscle or body aches; headache; new loss of taste or smell; sore throat; congestion or runny nose; nausea or vomiting; and diarrhea.
- (Section III) Specifications for those who are required to Shelter in Place through June 12, 2020. *The section remains unchanged by the 05.28.20.02 Executive Order. The shelter in place rules still only apply to those persons who are at higher risk of severe illness.*
- (Section IV) Requirements for Restaurants and Dining Services that have reopened or will reopen for dine-in services. *The 05.28.20.02 Executive Order now includes all "banquet facilities, private event facilities, and private reception venues where food is served". Restaurants are still required to limit occupancy to no more than ten persons per 300 square feet.*
- (Section V) Requirements for in-person operations by both Critical Infrastructure businesses and non-Critical Infrastructure operations, including gyms, bowling alleys, movie theaters, hair salons, spas, etc.
- (Section VI) Specifications for health care providers

- (Section VII) Requirements for childcare and educational services, including Summer Camps
- (Section VIII) Orders to County and Municipal Governments
- (Section IX) Enforcement
- (Section X) Miscellaneous.

PROVISIONS SPECIFIC TO LOCAL GOVERNMENTS (see pages 33-34 of Executive 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. ***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.***
2. Local governments can enact ordinances for emergency management purposes and to supplement the carrying out of the order. Such ordinances cannot be "inconsistent" with the order. This wording may seem somewhat confusing, especially as there is little by way of guidance on how this should be interpreted. However, it is likely that ordinances providing practical rules and regulations as to exactly how the order should be followed (such as for example, giving requirements for how the fever screening at restaurants should be carried out) would be consistent with the order. On the other hand, ordinances that restrict activities that have been explicitly allowed or restricted by the order would be "inconsistent" with the order. (See p. 34.)
3. 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. (This likely is in response to a specific GMA request.) (See p. 34.)
4. Violation of the order is defined as a misdemeanor under O.C.G.A. §38-3-7. (See p. 34)
5. 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. (This likely is in response to a specific GMA request.) (See p. 33)

SUMMARY OF KEY POINTS

General highlights:

- 1) Through June 12, 2020 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. 5 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.
- 2) ***Through June 15, 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.

- 3) Everyone is strongly encouraged to wear a face mask when outside of their homes (except for when eating or exercising).
- 4) The Order does not affect or alter court ordered visitation of minor children.
- 5) ***The Order expires June 15, 2020 at 11:59 P.M.***
- 6) Live performance venues are to remain CLOSED to the public during the Order, which means from June 1, 2020 until June 15, 2020. ***The 05.28.20.02 Executive Order does not include amusement rides, and bars in this closure requirement. As such amusement rides, which includes "amusement rides as defined by Code Section 25-15-51, traveling carnivals, water parks, circuses, and other temporary amusement rides" may open beginning June 1st provided they abide by the requirements contained on pages 21-24) in addition to the applicable requirements above for non-Critical Infrastructure.***
- 7) ***Bars may reopen beginning June 1st if they follow the specific guidelines contained on pages 18-20 of the 05.28.20.02 Executive Order.***

Critical and Non-Critical Infrastructure:

- 1) **Critical Infrastructure** – the same provisions as were previously ordered apply but additional COVID-19 symptoms were added to the list for screening purposes and PIN pads may be used but must be frequently disinfected – See pages 10-11 of the Order.
- 2) **Non-Critical Infrastructure** – the same provisions as were previously ordered apply but additional COVID-19 symptoms were added to the list for screening purposes, PIN pads may be used but must be frequently disinfected, and volunteers who have or may have COVID-19 or who may have been exposed to it within the past 14 days cannot volunteer - see pages 11-12 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. Cannot allow more than 10 patrons per 300 square feet of public space. (to calculate – include waiting and bar areas, but not hallways, restrooms and spaces not open to the public).
 - b. SHALL implement the 39 measures of the Order intended to mitigate the spread of COVID-19. (See pp. 7-10).
 - c. Some, but not all, of the significant measures are:
 - i. Not allowing anyone ***exhibiting Symptoms of COVID 19*** to work (screen all workers). ***This is amended in the 05.28.20.02 Executive Order to remove a list of specific symptoms.***
 - ii. Sick workers cannot work and can only return after 10 days after symptom onset (increased from 7 days under the 04.23.20.02 Order) if fever free for at least 3 days.
 - iii. Train workers on proper cleaning techniques and the importance of this cleaning.
 - iv. **All workers** must wear face coverings **at all times**, this includes back of house staff.
 - v. No handshaking or person to person contact.
 - vi. Enforce social distancing of non-cohabitating persons.

- vii. No salad bars/buffets unless the salad bar or buffet is being used for cafeteria-style service where a worker is responsible for serving the patron, handling the utensils and ensuring proper distancing in lines.
 - viii. Thoroughly clean and disinfect all areas before opening back up and continue to do so regularly.
 - ix. Between diners, restaurant staff must sanitize table condiments, digital ordering devices, check presenters, self-service areas, tabletops and commonly touched areas, and discard any single-use items.
 - x. Use rolled silverware (no table pre-sets).
 - xi. No self-service stations – wherever practicable. Workers should provide the items (such as drinks, condiments, utensils).
 - xii. Disposable paper menus are strongly encouraged. Otherwise, menus must be sanitized between each patron.
 - xiii. ***Limit contact between Workers and patrons.***
 - xiv. Redesign seating areas to allow for at least 6 feet of separation from seating to seating.
 - xv. Party sizes can be no more than 10 (up from 6 under the 04.23.20.02 Order)
 - xvi. All restaurant dining room playgrounds are closed.
- d. These requirements do not apply to dine-in services at hospitals, healthcare facilities, nursing homes, or other long-term care facilities.

2) **Retail Businesses and Food Establishments (grocery stores, convenience stores)** - shall implement additional measures (in addition to those in either critical or non-critical above) which are listed on page 13 of the Order. Some notable measures are:

- a. Limit number of patrons to 50% of fire capacity occupancy or 8 patrons per 1,000 square feet; (This likely is in response to a specific GMA request.)
- b. Encourage patrons to use hand sanitizer upon entry;
- c. Encourage non-cash payments where possible;
- d. Sanitize entrance and exit doors at least three times a day;
- e. Encourage workers to report health/safety issues to employer; and
- f. Installing protective screens or other mitigation measures where worker-patron interactions are likely.

3) **Food Establishments (grocery stores, convenience stores)** – have additional measures they must implement to the maximum extent practicable – (in addition to those above in critical infrastructure and #2 above) and those are found on pages 13-14 of the Order) – Notable measures include:

- a. Scheduling specific hours of operations for vulnerable populations; (This likely is in response to a specific GMA request.)
- b. Reducing store hours for additional cleaning after hours; (This likely is in response to a specific GMA request.)
- c. Enacting policies and procedures for social distancing – Plexiglass at registers; decals on floors; one-way aisles;
- d. Providing personal protective equipment for workers;
- e. Encouraging patrons to wear face coverings;
- f. No cooking stations or sampling stations;
- g. No self-service salad bars or buffets;
- h. Adding staff to oversee the sanitation of grocery carts; and

- i. Procuring options with third-party services for additional cleaning.
- 4) **Gyms and Fitness Centers** – in addition to the other measures applicable above (those in non-critical infrastructure) Gyms and Fitness Centers **must** implement 19 measures if they wish to reopen–
- a. See pages 15-16 of the Order. Essentially, screen patrons, don't let anyone in that is sick, clean everything, make sure patrons observe social distancing requirements. Prohibit patrons from sharing equipment without cleaning and sanitizing between uses, provide cleaners for patrons to clean machinery after use. 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 must remain closed. 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 13 mitigating measures found on pages 16-17 of the Order.
- a. Notable measures are: operate with appointments only, require patrons to use hand sanitizer before serving, not allowing anyone symptomatic to enter, allow one patron per service provider at the time (parent may enter with child), patrons must wait in their cars, outside or in a waiting area inside as long as the waiting area is set up to seat people at least 6 feet apart from one another, until the service provider is ready; 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 page 17 of the Order.
- 7) **Bowling Alleys** – must implement non-critical list and implement additional specific measures found on pages 17-18 of the Order. If they have a food service area – they must adhere to the measures required for dine-in restaurants.
- a. No parties or Gatherings (as defined on page 4 of the Order) – no playgrounds may be open. Arcades are no longer required to be closed.
 - b. Sanitize equipment, balls, seats, devices between use.
- 8) **Bars - *The 05.28.20.02 order has lifted the closure requirement on bars. In order to open bars beginning on June 1, 2020, the bars must implement the 39 measures provided for on pages 18-20 of the Order. These measures include, but are not limited to:***
- a. Limiting the total number of persons in the bar to 25 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) **Healthcare Providers** – are regulated on pages 24-26 of the Order.
- a. There are specific requirements for differing healthcare providers – i.e., dentists, optometrists, etc.
 - b. ***The 05.28.20.02 order has removed the provisions relating to emergency management workers and emergency management activities.***
- 10) **Education and Children** (Child Care Providers and Summer Camps) – (see pages 26-33 of the Order)
- a. Child care facilities may not transport children for any reason except from their residence to the facility.
 - b. ***School districts offering Summer School shall not be required to comply with the ban on gatherings.***
 - c. ***The limitation of 20 people per classroom is removed by the 05.28.20.02 order.***
 - d. Child care facilities must implement the non-critical infrastructure measures – and specific measures found on pages 28-29 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.
 - e. ***The 05.28.20.02 order removes the statement that if the CDC issues guidance for Summer Camps the CDC guidance will control.***
 - f. The Order establishes 32 rules for Summer Camps (including Overnight Summer Camps) (33 for overnight Summer Camps) (pp. 29 – 32) in addition to the applicable requirements for non-critical infrastructure.
 - g. Overnight Summer Camps are permitted to host Campers overnight beginning May 31, 2020.
 - 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.***

Local Governments (Pages 33-34)

1. ***The 05.28.20.02 order provides that 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.***
2. Can enact ordinances for emergency management purposes and to supplement the carrying out of the Order – but cannot be more or less restrictive.

Driver’s Licenses – Executive Order 05.12.20.01 terminated the provisions relating to Driver’s Licenses in the 04.23.20.02 Order, and specifically stated that an on-the-road driving test is required for a new driver’s

license. Anyone who received a driver's license without a road test based on the 04.23.20.02 Order will need to take a road test by September 30, 2020.

Enforcement

1. Any law enforcement officer may, after providing reasonable notice and at least TWO citation for violations of OCGA 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. (This likely is in response to a specific GMA request.)
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.