



MAJOR POINTS FROM GOVERNOR KEMP'S 05.12.20.02 EXECUTIVE ORDER

On May 12, 2020, Governor Kemp issued an extensive and detailed Executive Order. The 05.12.20.02 Executive Order ("the Order") is effective from May 14, 2020, until May 31, 2020, unless otherwise stated. In the Order the Governor covered the following topics related to the Coronavirus public health emergency:

- (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"
- (Section III) Specifications for those who are required to Shelter in Place through June 12, 2020
- (Section IV) Requirements for Restaurants and Dining Services that have reopened or will reopen for dine-in services
- (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 27-29 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. 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. 28.)
2. 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. 29.)
3. Violation of the Order is defined as a misdemeanor under O.C.G.A. §38-3-7. (See p. 28)
4. 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. 27)

5. The following reporting deadlines have been extended by ninety (90) days for any local government that would have had an audit due at any time during the Public Health State of Emergency or within ninety (90) days after the Public Health State of Emergency ends (This likely is in response to a specific GMA request.):
 - a. Audit reporting deadline imposed by O.C.G.A. §36-81-7(d),
 - b. Deadline for submission of the local government finances reports and indebtedness reports required under O.C.G.A. §36-81-8,
 - c. Grant certification form reporting deadlines imposed by O.C.G.A. §36-81-8.1.
(See pp. 27-28)

SUMMARY OF KEY POINTS (Note: New or significantly revised provisions are underlined)

General highlights:

- 1) Through May 31, 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) Everyone (everywhere) must practice social distancing procedures as well as sanitation methods as prescribed by the CDC, and refrain from gathering.
- 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 May 31, 2020 at 11:59PM.
- 6) Live performance venues, operators of amusement rides, and bars are to remain CLOSED to the public during the Order, which means from May 14, 2020 to May 31, 2020.
- 7) **Pools were closed to the public under the 04.23.20.02 order but are no longer required to be closed. However, water parks, splash pads and water slides are still required to be closed.**

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** –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 with a fever of 100.4 or other signs of illness (including cough, shortness of breath, difficulty breathing, fever, chills, muscle pain, sore throat or new loss of smell) to work (screen all workers).
 - 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. Redesign seating areas to allow for at least 6 feet of separation from seating to seating.
 - xiv. Party sizes can be no more than 10 (up from 6 under the 04.23.20.02 Order)
 - xv. 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 – (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 14-15 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. New to 05.12.20.02 Order: It appears that pools, basketball courts, tanning beds can be used, as long as there is no congregating and social distancing is enforced. 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) **Healthcare Providers** – are regulated on pages 18-21 of the Order.
- a. There are specific requirements for differing healthcare providers – i.e., dentists, optometrists, etc.
 - b. The order has new provisions relating to emergency management workers and emergency management activities.
- 9) **Education and Children** (Child Care Providers and Summer Camps) – (see pages 21-27 of the Order)

- a. Child care facilities may not transport children for any reason except from their residence to the facility.
- b. Child care classrooms are limited to 20 people per classroom.
- c. Child care facilities must implement the non-critical infrastructure measures – and specific measures found on pages 22-23 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.
- d. If the CDC issues guidance for Summer Camps, the CDC guidance will control.
- e. In the meantime, the Order establishes 32 rules for Summer Camps (33 for overnight Summer Camps) (pp. 23 – 26) in addition to the applicable requirements for non-critical infrastructure.
- f. Overnight camps are not allowed until authorized by the Department of Public Health.

Local Governments

- 1) Reporting requirements for audits suspended (see pages 27-29) (This likely is in response to a specific GMA request.)
- 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 38-3-7.
3. No judicial Order is affected by the executive Order.