

Georgia Governor Issues Executive Order Allowing Businesses to Reopen

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On April 23, 2020, Georgia Governor Brian Kemp issued Executive Order (EO) No. 04.23.20.02 entitled “[Reviving a Healthy Georgia](#)” to broaden permitted business openings and gradually allow for Georgia to reopen.

EO No. 04.23.20.02 goes into effect on May 1, 2020, at 12:00 a.m., except that certain businesses are permitted to open prior to this date (as described below). EO No. 04.23.20.02 remains in effect until May 13, 2020, at 11:59 p.m. Governor Kemp’s [original shelter-in-place order](#), EO No. 04.03.20.01, had been set to expire on April 13, 2020, but was extended through April 30, 2020.

EO No. 04.23.20.02 prohibits any county or municipality from issuing its own shelter-in-place order until at least May 14, 2020.

Under EO No. 04.23.20.02, Georgia residents and visitors are required to practice social distancing and avoid gatherings of 10 or more people, if to be present at a gathering would require individuals to stand or be seated within 6 feet of others. Similarly, businesses (except those deemed “critical infrastructure”) are prohibited from allowing gatherings of 10 or more people if doing so would require people to stand or be seated within 6 feet of others. The order “strongly encourage[s]” all residents and visitors to wear face coverings as much as possible while in public and requires all individuals at higher risk of severe illness to shelter in place.

The restrictions imposed by EO No. 04.23.20.02 fall into three general categories, similar to those found in EO No. 04.03.20.01: (1) critical infrastructure; (2) non-critical infrastructure; and (3) businesses not yet permitted to reopen. For non-critical businesses, additional restrictions may apply depending on the business, as described below.

Businesses deemed “critical infrastructure” under EO No. 04.03.20.01 may remain open but *must* continue to implement safety measures. EO No. 04.23.20.02 enumerates 17 suggested safety measures, but reiterates that even essential business *must* implement measures to “mitigate the exposure and spread of COVID-19.”

Businesses deemed “non-critical infrastructure” under EO No. 04.03.20.01 may begin in-person operations starting May 1, 2020. However, all such businesses must implement the required safety

measures enumerated under EO No. 04.23.20.02. The new order requires additional safety measures for particular categories of businesses, including restaurants, retailers, food establishments, gyms and fitness centers, movie theatres, and bowling alleys.

The following businesses *must remain closed* to in-person operations and are not permitted to reopen to the public until the restrictions of EO No. 04.23.20.02 are lifted:

- Public swimming pools
- Performance venues
- Amusement parks and operators of amusement rides
- Bars

Restaurants may open effective April 27, 2020. Restaurants must not allow more than 10 patrons per 500 square feet of public space. In calculating the total public square footage, restaurants must include waiting and bar areas, but not “hallways, restrooms, and spaces closed to patrons.” In addition to the safety measures required of non-critical businesses, restaurants are also required to implement a broad array of safety measures, described below. These restrictions do not apply to dine-in services in hospitals, healthcare facilities, nursing homes, or long-term care facilities.

Retail businesses must implement additional measures in order to remain operational. In addition to the safety measures required of non-critical businesses, retail businesses must:

- limit the number of patrons inside a store to 50 percent of fire capacity or 8 patrons per 1,000 square feet;
- encourage patrons to use hand sanitizer upon entering;
- encourage noncash payments to the extent possible;
- sanitize entrance and exit doors at least three times per day;
- encourage workers to report all safety and health concerns;
- install protective screens or similar mitigation measures in areas of worker-patron interaction; and
- provide additional hand sanitizer within the business.

Food establishments, such as retail and wholesale grocery stores, must also implement the safety measures required for retail businesses. In addition to the safety measures required of non-critical businesses, food establishments must implement additional measures as much as practicable. Among the measures EO No. 04.23.20.02 suggests for food establishments are:

- Schedule specific hours of operations for vulnerable populations to shop without other patrons.

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- Reduce store hours to allow for increased cleaning and sanitation.
 - Enact policies and procedures to encourage social distancing for patrons and employees, and implement measures such as protective plexiglass screens at service counters and registers, decals on aisles with social distancing tips, signs throughout the store giving visuals on social distancing, and use of one-way aisles.
 - Provide personal protective equipment (PPE) to workers as available and appropriate.
 - Encourage patrons to wear face coverings.

Gyms and fitness centers must implement additional measures in order to remain operational. In addition to the safety measures required of non-critical businesses, EO No. 04.23.20.02 requires gyms and fitness centers to implement measures including using signage restricting entrance to patrons who have not been exposed to, diagnosed with, or showing symptoms of COVID-19, screening patrons, implementing social distancing guidelines, and limiting locker room use.

Body art studios, estheticians, barber shops/hair salons, massage therapists, and tanning facilities must also implement additional measures in order to remain operational. In addition to the safety measures required of non-critical businesses, EO No. 04.23.20.02 states that these businesses must do the following:

1. Provide services by appointment only
2. Require patrons “to sanitize their hands upon entering the facility and before any treatment”
3. Allow only one patron per service provider in the business at a time
4. Allow “one parent to be within a facility if a minor child is receiving a haircut”
5. Require patrons to wait outside until their service provider is ready
6. Stagger the “use of every-other workstation or space workstations more than 10 feet apart”
7. Stagger “work schedules so that no more than 50 percent of the normal number of employees providing services will be in the business at a time”
8. Require all employees to wear PPE as available and appropriate

Movie theaters must also implement the same safety measures required for restaurants (see below) in all food service areas. In addition to the safety measures required of non-critical businesses, movie theaters must refrain from hosting parties and close playgrounds, among other safety measures.

Bowling alleys must also implement the same safety measures required for restaurants in all food service areas. In addition to the safety measures required of non-critical businesses, bowling alleys must:

1. remove items from all self-service accessory stations (bowling balls, shoes, etc.) and require

that workers provide such items to patrons directly;

2. limit lanes to groups of no more than six patrons;
3. stagger lanes so that only every other lane or every third lane is in use to maintain proper social distancing between groups of patrons;
4. sanitize scorekeeping machines, ball returns, tables, seats, and other fixtures at each lane before and after each use; and
5. sanitize bowling balls and bowling shoes before and after each use.

EO No. 04.23.20.02 also provides operational guidance to allow dental practices and clinics, opticians, and ambulatory surgical centers to conduct in-person operations so long as they implement additional safety measures.

In addition, EO No. 04.23.20.02 provides guidance to schools and similar educational facilities. For example, schools are allowed to require staff to attend meetings or other necessary activities for the purpose of supporting distance learning, administration, maintenance, or preparing for the 2020-2021 school year. For childcare facilities, EO No. 04.23.20.02 requires additional safety measures (in addition to those required for non-critical infrastructure and those promulgated by the Georgia Department of Early Care and Learning).

All businesses that continue in-person operations “should implement the following measures if practicable”:

- (a) provide PPE “as available and appropriate to the function and location of the worker within the business location”;
- (b) provide “disinfectant and sanitation products for workers to clean their workspace, equipment, and tools”; and
- (c) increase “physical space between workers’ worksites to at least” six feet.

EO No. 04.23.20.02 defines PPE as “surgical masks, N95 masks, respirators, other facemasks, protective gloves, protective clothing, protective garments, and shoe coverings.”

Safety Measures for Critical Infrastructure

As noted above, critical infrastructure entities continuing to use in-person operations must implement measures to mitigate the exposure and spread of COVID-19 in the workforce. EO No. 04.23.20.02 provides the following recommended measures:

1. “Screening and evaluating workers who exhibit signs of illness, such as a fever over 104 degrees Fahrenheit, cough, or shortness of breath”
2. “Requiring workers who exhibit signs of illness to not report to work or to seek medical attention”

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3. "Prohibiting Gatherings of workers during working hours"
 4. "Permitting workers to take breaks and lunch outside, in their office or personal workspace, or in such other areas where proper social distancing is attainable"
 5. "Implementing teleworking for all possible workers"
 6. "Implementing staggered shifts for all possible workers"
 7. "Holding all meetings and conferences virtually, whenever possible"
 8. "Delivering intangible services remotely, whenever possible"
 9. "Discouraging workers from using other workers' phones, desks, offices, or other work tools and equipment"
 10. "Prohibiting handshaking and other unnecessary person-to-person contact in the workplace"
 11. Maintaining six feet between all open sales registers
 12. Frequently cleaning point of sale equipment
 13. "Placing notices that encourage hand hygiene at the entrance to the workplace and in other workplace areas where they are likely to be seen"
 14. "Suspending the use of Personal Identification Number ('PIN') pads, PIN entry devices, electronic signature capture, and any other credit card receipt signature requirements to the extent such suspension is permitted by agreements with credit card companies and credit agencies"

Safety Measures for Non-Critical Infrastructure

As noted above, businesses *not* classified as "Critical Infrastructure" must also implement measures to mitigate the exposure and spread of COVID-19 in the workforce, including:

1. screening and evaluating workers who exhibit signs of illness related to COVID-19;
2. for retail businesses, posting a sign on the storefront stating that individuals who have a fever or other COVID-19 symptoms are prohibited from entering;
3. "requiring workers who exhibit signs of illness to not report to work or to seek medical attention";
4. enhancing sanitization of the workplace;
5. "disinfecting common surfaces regularly";
6. requiring workers to regularly wash their hands;

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7. prohibiting workers from gathering during working hours;
 8. allowing workers to take breaks and meals where proper social distancing is attainable;
 9. implementing teleworking;
 10. implementing staggered shifts;
 11. holding meetings and conferences virtually;
 12. “for retailers and service providers, providing for alternative points of sale outside of buildings, including curbside pick-up or delivery of products and/or services if an alternative point of sale is permitted under Georgia law”;
 13. maintaining six feet between all open sales registers;
 14. frequently cleaning point-of-sale equipment;
 15. increasing physical space between workers and customers; and
 16. “suspending the use of Personal Identification Number (‘PIN’) pads, PIN entry devices, electronic signature capture, and any other credit card receipt signature requirements to the extent such suspension is permitted by agreements with credit card companies and credit agencies.”

Safety Measures for Restaurants

As noted above, restaurants must implement additional measures to mitigate the exposure and spread of COVID-19 among the workforce. EO No. 04.23.20.02 provides as follows:

1. Screen and evaluate workers who exhibit signs of illness related to COVID-19, such as a fever over 100.4 degrees Fahrenheit, cough, or shortness of breath.”
2. “Require workers who exhibit signs of illness to not report to work or to seek medical attention.”
3. Where possible, implement teleworking, staggered shifts, and virtual meetings and conferences.
4. “Train all employees on the importance and expectation of increased frequency of handwashing, the use of hand sanitizers with at least 60% alcohol, and provide clear instruction to avoid touching hands to face.”
5. “Require all employees to wear face coverings at all times” and to clean or replace the coverings daily.
6. “Discourage workers from using other workers’ phones, desks, offices, or other work tools and equipment.”

7. "Where possible, stagger workstations to avoid employees standing adjacent to one another or next to each other. Where six (6) feet of separation is not possible, consider spacing options that include other mitigation efforts with increased frequency of cleaning and sanitizing surfaces."
8. Limit the number of employees who can use breakrooms at the same time.
9. "Prohibit handshaking and other unnecessary person-to-person contact in the workplace."
10. "Enforce Social Distancing of non-cohabitating persons while present on the employer's property."
11. "The use of disposable paper menus is strongly encouraged." Restaurants that use paper menus should discard them after each patron use. Businesses must clean and sanitize reusable menus between each use by a patron. "Non-touch menus are also acceptable for use."
12. "Clean and sanitize restrooms regularly, check restrooms based on the frequency of use, and ensure adequate supply of soap and paper towels at all times."
13. "Implement procedures to increase cleaning and sanitizing frequency of surfaces in the back-of-house."
14. "Update floor plans for common dining areas, redesigning seating arrangements to ensure at least six feet of separation from seating to seating. Utilize physical barriers on booth seating when available."
15. Limit parties to no more than six per table.
16. "Use technological solutions where possible to reduce person-to-person interaction: mobile ordering, mobile access to menus to plan in advance, text on arrival for seating, and contactless payment options."
17. "Provide hand sanitizer for use by patrons, including contactless hand sanitizing stations when available."
18. "Do not allow patrons to congregate in waiting areas or bar areas. Design a process to ensure patron separation while waiting to be seated that can include floor markings, outdoor distancing, or waiting in cars."

The full list of safety measures for all categories of businesses can be found in the [order](#).

EO No. 04.23.20.02 provides that any person who violates the order can be charged with a misdemeanor, although officials enforcing this order are encouraged to take reasonable steps to provide notice prior to issuing citations or making arrests.

EO No. 04.23.20.02 deputizes law enforcement officers to mandate the closure of any business or entity in violation of the order through May 13, 2020. However, before an officer is authorized to mandate closure of a business, the business *must first* receive a warning and two citations for

violating the order.

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