



Model Face Mask on County Property Resolution

Background. On August 15, 2020, Governor Brian Kemp issued Executive Order 08.15.20.01 (“the EO”), that provides local governments with two separate types of authority regarding face mask requirements:

1. *Mask Requirements in Public and Private Spaces in Certain Counties.* Counties that meet the Threshold Requirement may decide to impose a Local Option Face Covering Requirement¹ under certain circumstances where a minimum of six feet cannot be maintained between individuals not living in the same residence. The face mask requirements may apply on county property and certain private property (as described below). The county must make a good faith, reasonable effort to distribute free masks to individuals who cannot afford a mask.²

This type of ordinance is *not* covered in the attached model resolution. ACCG does have a Model Public Face Mask Ordinance available in a separate guidance (Model Public Face Mask Ordinance Local Option Face Covering Requirement).

2. *Masks and Other Requirements on County Property.* Except for polling places, county governments (and cities and government authorities, boards, bureaus, and commissions) may require terms of entry to county owned or leased property³. This includes requiring a face mask or face covering.⁴ However, no one may be denied entrance or exit to or from a Polling Place (i.e., the room provided in each precinct for voting)⁵ for failure to wear a mask.⁶ While the EO specifically mentions face masks, in terms of describing what measures may be taken to control entry, it does not mention any other specific types of measures. A county has the authority to control terms of entry to county property “regardless of whether the Threshold Requirement is met”⁷ (i.e. the requirements described). A county may adopt an ordinance or policy regarding masks and other requirements on county property even if the county does not have confirmed cases greater than or equal to 100 cases per 100,000 people according to DPH over the most recent 14 day period⁸

About the Model Resolution. This model resolution is provided for general informational purposes in order to assist counties that desire to require employees, citizens, and visitors to county property to wear masks in accordance with Governor Brian Kemp’s Executive Order 08.15.20.01 (“the EO”) and the County’s

¹ Executive Order 08.15.20.01, page 8-9, see definition of “Local Option Face Covering Requirement.”

² Executive Order 08.15.20.01, page 39.

³ Executive Order 08.15.20.01, page 39.

⁴ Executive Order 08.15.20.01, page 39.

⁵ O.C.G.A. § 21-2-2(27).

⁶ Executive Order 08.15.20.01, page 39.

⁷ Executive Order 08.15.20.01, page 39.

⁸ Executive Order 08.15.20.01, pages 9-10.

Home Rule authority⁹ and statutory authority to control its property.¹⁰ Consideration should be taken in dealing with the portions of county buildings that are used by constitutional officers, the courts and other state and county elected officials. As noted in the resolution, while the county governing authority generally has control over county property, this power is not absolute.

Care should be taken to make sure that the resolution is customized to take the actions desired by the county governing authority. For instance, the resolution only includes a requirement for face masks or coverings. It does not include temperature check points, the setting of appointments, the provision of passes to go to certain offices, and other unique requirements developed by several Georgia local governments

This model resolution is not and should not be treated as legal advice. County staff should consult with the county attorney before drafting, adopting, or taking any action based on this model.

Finally, this model resolution is based on the model resolution prepared by the Georgia Municipal Association. The ACCG Legal Department wishes to thank the GMA for its assistance in preparing this resolution.

⁹ Ga. Const., Art. IX, Sec. II, Para. I(a)

¹⁰ O.C.G.A. §§ 36-5-22.1(a)(1) and 36-9-2.

**A RESOLUTION REQUIRING THE USE OF MASKS OR FACE COVERINGS IN
PROPERTY OWNED OR LEASED BY _____ COUNTY DURING THE COVID-19
OUTBREAK**

WHEREAS, the World Health Organization declared COVID-19 a worldwide pandemic as of March 11, 2020;

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency in response to the outbreak of COVID-19;

WHEREAS, on March 14, 2020, Governor Brian Kemp declared that a public health emergency exists in the State of Georgia due to the spread of COVID-19 within Georgia;

WHEREAS, a significant number of Georgia residents are at risk of serious health complications, including death, from COVID-19;

WHEREAS, COVID-19 is an infectious virus known to cause the respiratory disease that spreads spread from person to person whether the infected individual is exhibiting symptoms or not. COVID-19 can cause serious illness, permanent organ damage and death;

WHEREAS, individuals age 65 or over or living with certain medical conditions identified by the CDC (members of Vulnerable Populations) and members of other populations identified by the CDC (“Other Populations at Risk”) are at risk of severe and lasting harm to health or death from COVID-19;

WHEREAS, the Centers for Disease Control and Prevention (“CDC”) has noted that COVID-19 spreads very easily and sustainably when an infected person, who may have minor no symptoms breathes, talks, sneezes, or coughs in close proximity with others;

WHEREAS, the Governor’s Executive Orders require Vulnerable Populations to continue to shelter in place, with exceptions that include participating in essential services and working;

WHEREAS, the County Governing Authority has original and exclusive jurisdiction over the directing and controlling of all property of the county. The County Governing Authority must exercise its discretion in accordance with law;¹¹

WHEREAS, the County Governing Authority acknowledges that such control over County property must be coordinated with other state and county elected officials, who use County buildings and have responsibilities related to the use of the County property;¹²

WHEREAS, in general, the County Governing Authority is required to keep the courthouse open during normal working hours, other than declared holidays, so that the public may conduct its business.¹³

WHEREAS, many County employees and many members of the public who visit the courthouse and other

¹¹ O.C.G.A. § 36-5-22.1(a)(1).

¹² See, O.C.G.A. §§ 15-16-10(a)(10), 36-9-8 and 36-81-11

¹³ O.C.G.A. § 36-1-12; see also O.C.G.A. §§ 15-6-93 and 15-9-83.

County buildings may be members of Vulnerable Populations and/or “Other Populations at Risk;”

WHEREAS, the County Governing Authority desires to protect individuals in said Vulnerable Populations and Other Populations at Risk, in a reasonable manner and as recommended by the CDC and by the Georgia Department of Public Health, while such individuals are working in, conducting business in, or visiting County buildings;

WHEREAS, while much is not yet known about COVID-19, the evidence indicates that the use of face coverings reduces the transmission of infected droplets in both laboratory and clinical contexts.¹⁴ With what is known about the transmission of COVID-19 at this time, wearing a face covering or mask is one of the most effective ways of stopping the spread of the virus when mask wearing compliance is high. This evidence supports the conclusion that the adoption of more widespread face covering requirements can help to control the COVID-19 epidemic by reducing the shedding of droplets into the environment from asymptomatic, presymptomatic and symptomatic individuals;

WHEREAS, the CDC states that wearing a face covering over the nose and mouth is a recommended precaution designed to prevent symptomatic and asymptomatic individuals who have contracted COVID-19 from spreading it to other individuals; and

WHEREAS, to be an effective precaution, it is necessary to require all employees, vendors, and visitors of the County Governing Authority and members of the public to wear a face covering over the nose and mouth while in public areas in county buildings and while meeting in County buildings; and

WHEREAS, having county offices that are open and accessible to the public as necessary to conduct in-person business that cannot be conducted by other means is important for the economic vitality of the County;

WHEREAS, certain activities, such as discussing and reviewing construction and other permits, benefit from or require face-to-face interactions between County employees and other individuals;

WHEREAS, if a County employee is exposed to the COVID-19 by an individual visiting a County building or otherwise, then in accordance with CDC guidance, such employee will need to quarantine at home for at least 14 days;

WHEREAS, if a County employee is diagnosed with COVID-19 or develops COVID-19 symptoms, such employee will be required to isolate at home in accordance with CDC guidance;

WHEREAS, the County Governing Authority is authorized to establish policies for how the public can access the portions of the county building under its authority during the Public Health State of Emergency and thereafter, including closing such County buildings or opening County buildings to the public but placing restrictions on public access; and

WHEREAS, the County has made and continues to make efforts to reduce the need for members of the public to physically visit County buildings to interact with County employees, file applications, file deeds and other legal documents, pay bills, and conduct other business with the County;

¹⁴ “COVID-19: Considerations for Wearing Masks.” Centers for Disease Control and Prevention, Centers for Disease Control and Prevention, 7 Aug. 2020, www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-guidance.html.

WHEREAS, the County Governing Authority intends to assist its employees and the public with mitigating the spread of COVID-19 in County buildings by providing hand sanitizer, designating an entrance door and an exit door, disinfecting common surfaces regularly, prohibiting handshaking, and encouraging social distancing of non-cohabitating persons, as well as other mitigating measures;

WHEREAS, despite these precautions, the County Governing Authority recognizes that it is not always possible to ensure social distancing within the County buildings;

WHEREAS, the following actions are necessary and appropriate to balance the public's interest in having access to County buildings under the control of the County Governing Authority for the conduct of business and other purposes with the compelling public interest of providing for the health, safety and welfare of the County's employees and individuals who visit County buildings and preventing an outbreak of or continuing the spread of COVID-19 in the County and the surrounding community.

NOW THEREFORE BE IT RESOLVED, that for the protection of members of the public and County employees, including members of Vulnerable Populations and members of Other Populations at Risk, employees of the County Governing Authority are required to wear face coverings over the nose and mouth, which face coverings are cloth face coverings as defined by the CDC or are face coverings designed to protect others from infection by the wearer, when in public areas of County buildings subject to the control of the County Governing Authority and when participating in physical meetings with other individuals within non-public areas of such County buildings.

BE IT FURTHER RESOLVED, that for the protection of members of the public and County employees, including members of Vulnerable Populations and members of Other Populations at Risk, members of the public age two years and older are required to wear face coverings over the nose and mouth, which face coverings are cloth face coverings as defined by the CDC or are face coverings designed to protect others from infection by the wearer, when entering and while inside of County buildings subject to the control of the County Governing Authority except as expressly stated in a separate policy, order or law, if any, that applies to certain uses of portions of County buildings, such as courtrooms and polling locations.

BE IT FURTHER RESOLVED, that no one may be denied entrance or exit to or from a Polling Place (i.e., the room provided in each precinct for voting)¹⁵ for failure to wear a mask.¹⁶

BE IT FURTHER RESOLVED, that the County will communicate ways to perform County business that do not require entry into a County building where practicable.

BE IT FURTHER RESOLVED, for County business that must be done in person, the County will take reasonable steps to accommodate the needs of members of the public who affirm they cannot wear a face covering because they are physically unable to remove such a face covering without assistance, they have a bona fide medical reason for not wearing a face covering, or when the individual has a bona fide religious objection to wearing a face covering.

BE IT FURTHER RESOLVED, that the County will communicate the types of acceptable face coverings required for entry into County buildings and instructions by the CDC about how to make such face coverings easily and inexpensively.

BE IT FURTHER RESOLVED, that the County will display information from the CDC or the County Health

¹⁵ O.C.G.A. § 21-2-2(27).

¹⁶ Executive Order 08.15.20.01, page 39.

Department explaining or illustrating the proper way to wear and remove face coverings.

BE IT FURTHER RESOLVED, that the County will attempt to provide face coverings to individuals visiting County buildings who do not otherwise have a face covering that meets these requirements.

BE IT FURTHER RESOLVED, that nothing in this Resolution is intended to take any action affecting the office of any state or county court located in a County building, the Sheriff, the Superior Court Clerk, or the Tax Commissioner.

SO RESOLVED, this _____ day of _____, 2020.

BOARD OF COMMISSIONERS OF
_____ **COUNTY, GEORGIA**

Chair

ATTEST:

County Clerk

Approved as to Legal Form:

County Attorney