

# The Unmasking of Texas Cities



# Tail Up



The Unmasking of Texas Cities

17<sup>th</sup> Annual Local Government Seminar

OLSON & OLSON <sup>LLP</sup>

# Executive Order No. GA-34

- Issued March 2<sup>nd</sup>, 2021
- “Opened up Texas 100%”
- What was said about masks:
  - “Individuals are strongly encouraged to wear face coverings over the nose and mouth wherever it is not feasible to maintain six feet of social distancing from another person not in the same household, BUT no person may be required by any jurisdiction to wear or to mandate the wearing of a face covering.”

# Executive Order No. GA-34 (Cont'd)

- What was said about masks (cont'd):
  - “No jurisdiction may impose a penalty of any kind for failure to mandate that customers or employees wear face coverings, except that of a legally authorized official may act to enforce trespassing laws and remove violators at the request of a business establishment or other property owner.”
  - “Nothing in this executive order precludes businesses or other establishments from requiring employees or customers to follow additional hygiene measures, including the wearing of a face mask.”



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# Executive Order No. GA-34 – What We *Thought* It Meant

- Cities in Texas cannot issue an order mandating that its citizens wear masks while in the jurisdiction to be enforced by a penalty.
- Cities in Texas still have the same rights as other establishments to require the wearing of face coverings of employees and the public while in a city-owned building. This would include employees, customers and those attending public meetings.



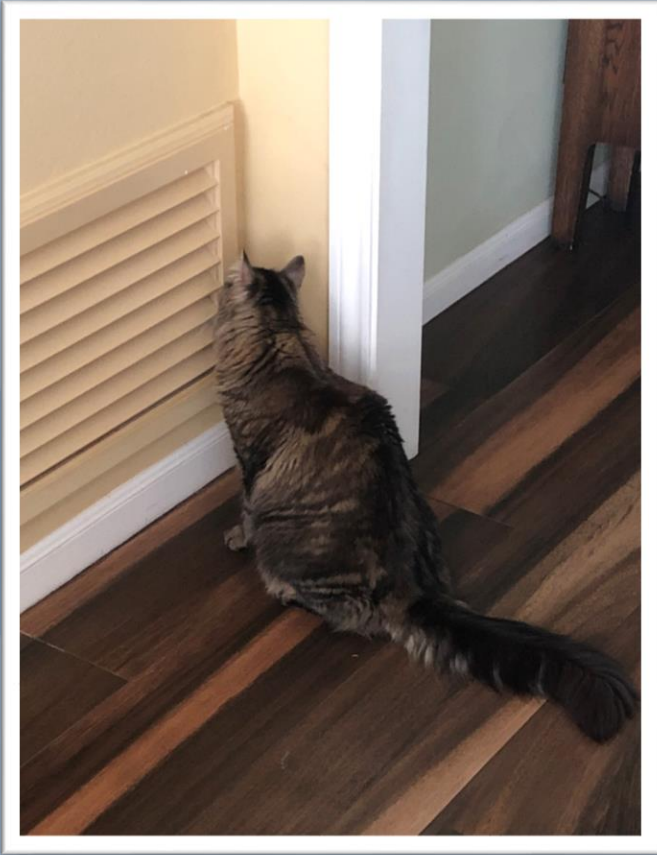
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# Executive Order No. GA-34 – What We *Thought* It Meant

WE WERE WRONG



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# Executive Order No. GA-36

- Issued May 18<sup>th</sup>, 2021
- Clarified Executive Order No. GA-34
- What was said about masks:
  - “No governmental entity, including a county, city, school district, public health authority, and no governmental official may require any person to wear a face covering or to mandate that another person wear a face covering...”
  - “...business activities and legal proceedings are free to proceed without COVID-19 related limitations imposed by local governmental entities or officials.”

# Executive Order No. GA-36

- Cities now have less rights than, say, Macy's.
- This may be the first time that, as part of an order supporting a disaster declaration, an order has been issued that cities are prohibiting an entity from taking action to protect against the disaster.



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# Executive Order No. GA-36 – Where Are We Now?

- Cities cannot require anyone, including employees and members of the public, to wear a mask. Anywhere. Anytime.



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# Executive Order No. GA-36 – Where Are We Now?

## What About Courts?

- GA-36 notwithstanding, it appears that courts are still operating under the 36<sup>th</sup> Emergency Order regarding the COVID-19 State of Disaster issued by the Supreme Court of Texas on March 5<sup>th</sup>, 2021
- Pursuant to Emergency Order No. 36, the Court still encouraged remote trials and gives local presiding judges authority to require masks for participants and to impose physical distances for in-person proceedings.



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