



# UKS Religious Gathering Guidance & Conn. Public Health Executive Orders

On April 10, 2020, the Governor of the State of Connecticut, Ned Lamont (the “Governor”), extended to May 20, 2020, *Executive Orders requiring social distancing, restricting gatherings including social, recreational, and religious gatherings, and otherwise providing guidelines for various gatherings and activities*. See, Executive Order 7X, Section 3.

The announcement of the Governor’s April extension occurred at or near the beginning of special religious observances such as Passover (April 8-16) and the Easter Season, beginning April 12, 2020. Because the extended distancing orders include a higher threshold for “*religious, spiritual or worship gatherings*”, as compared with secular gatherings, many have sought greater clarity regarding which gatherings qualify as “recreational” or “social” gatherings of No More Than Five (5) versus the larger “religious”, “spiritual” or “worship” gatherings including Less Than Fifty (50).

During the busy spring wedding season, the distinction between “social” and “religious” gatherings takes on important significance for those businesses and personal clients planning, hosting, or sponsoring various types of social or religious gatherings.

## Brief Summary of Size Restrictions: Social and Recreational versus Religious, Spiritual or Worship Gatherings

### *1. Overview*

On March 10, 2020, the Governor issued declarations of public health and civil preparedness emergencies, declaring a state of emergency throughout the State of Connecticut as a result of the coronavirus disease (“Covid-19”). Almost immediately thereafter, the Governor began issuing Executive Orders (“EO(s)”) mandating restrictions and providing guidance for social and recreational gatherings and, by later extension, for all *religious, spiritual or worship* gatherings.

Under EO 7N, all permissible gatherings were limited to no more than fifty attendees, including, for example, a religious wedding ceremony. Of further importance, in connection with such a religious gathering, food and beverage service was also prohibited for on-premises consumption, pursuant to EO 7D. Certain other important precautionary measures have also been required such as the wearing of masks for all present within six feet of one another, pursuant to EO 7BB.

As set forth in greater detail below, the referenced EOs provide significant penalties for failure to comply with the requirements of these public health and civil preparedness measures. However, if strictly adhered to, the Governor's EOs do allow for religious ceremonies with up to 49 persons in attendance, provided those in attendance, guests, clergy and/or staff, employ reasonable and appropriate distancing measures.

## ***2. Religious, Spiritual or Worship Gatherings of Less Than Fifty (50) Persons***

With the relevant clarifications discussed below, a Connecticut venue may host a religious, spiritual or worship gathering such as a wedding ceremony with up to forty-nine (49) total participants, including: guests, participants, photographers, clergy/facilitators, and all venue staff, provided certain conditions are met. Food and beverage consumption, such as that often associated with a traditional "wedding reception" is not permissible.

EO 7N, limits social or recreational gatherings to not more than five (5) people. However, EO 7N also provides an exception that:

***"religious, spiritual or worship gatherings*** shall not be subject to such increased restrictions, and shall instead remain subject to the prohibition on gatherings of 50 or more people, provided that they employ reasonable and appropriate distancing measures."

It is worth noting that under the Governor's original executive order EO 7, dated March 12, 2020, which prohibited large gatherings of 250 people or more, all "spiritual gatherings" and "worship services" were expressly excluded from any prohibition. It wasn't until the subsequently issued EO 7D, four days later, on March 16, 2020, when gatherings of 50 or more people were prohibited, that "religious, spiritual or worship gatherings" were included in the prohibition. As a result, and where the current Executive Orders stand now, although most secular gatherings of more than 5 people are prohibited, ***religious, spiritual or worship gatherings of less than 50 persons are allowed, provided those gathered employ reasonable and appropriate distancing measures.***

## ***3. Reasonable and Appropriate Distancing Measures***

Several other EOs provide further restrictions and guidance regarding "*reasonable and appropriate distancing measures*" that also apply to religious, spiritual or worship gatherings. Most notably, EO 7D prohibits the serving of food and beverage for consumption "on premises." It states, in relevant part, "any restaurant or eating establishment and any location licensed for on premise consumption of alcoholic liquor in the State of Connecticut, . . . shall only serve food or non-alcoholic beverages for off-premises consumption."

Thus, while a religious, spiritual or worship focused gathering such as a wedding ceremony may occur with up to 49 total attendees, no food or alcohol may be served at any restaurant or eating establishment, on premises, pursuant to EO 7D. It is noted that most religious venues such as a "church hall", or a synagogue would not likely fall under the restricted "restaurant or eating establishment". However, it should be anticipated that the application of EO 7D, would likely be interpreted, as a practical matter, to any such venue.

Additionally, it is further remarkable and relevant that EO 7BB currently requires the wearing of cloth facial protection, in certain circumstances, which may also be applicable to ***religious, spiritual or worship*** gatherings. EO 7BB states, in relevant part that, "any person in a public place in Connecticut who is unable to or does not maintain a safe social distance of approximately six feet from every other person shall cover their mouth and nose with a mask or cloth face-covering."

Thus, all guests, participants, and staff, gathered for a religious, spiritual or worship service, including, *for example*, a wedding, would likely be required to wear face masks at all times when gathered together for a ceremony pursuant to EO 7BB.

#### **4. Penalties for Failure to Comply with EOs**

The Governor's EOs are issued pursuant to his authority during a time of public health and civil preparedness emergency pursuant to Conn. Gen. Stat. Chapter 517, §§28-1, *et seq.* Local municipalities may have also declared local states of emergency pursuant to local charter or ordinance. Conn. Gen. Stat. §28-22 provides that persons who willfully interfere or obstruct any lawful civil preparedness function or activity may be subject to "criminal penalties pursuant to Section 28-22 of the Connecticut General Statutes", a class D felony that carries with it a fine up to but not to exceed \$5,000 and a term of imprisonment up to but not to exceed five years. Local ordinances may also provide for civil penalties or fines. Although it is generally accepted that adhering to the terms of the Governor's EOs would not result in a criminal violation of Conn. Gen. Stat. §28-22, the local enforcement of these orders is in the purview of local municipalities and police departments. As such, it is recommended that in connection with the scheduling of even compliant religious, spiritual or worship gatherings the venue and/or hosts should notify the police in advance, as well as arrange for the following measures, if scheduling a qualifying gathering.

#### **5. Municipal Notification, Guest List Notification, Liability Waivers, and Force Majeure**

a. Municipal Notification in Advance. It is advisable to notify the chief elected official, and/or police department in advance of any religious, spiritual or worship gathering to make sure the municipality and its police department understands the nature of any such gathering as a religious event, which is in compliance with the EOs. This serves two functions: First, it provides assurance that any complaints from the public or neighbors can be adequately addressed by the police as they are aware of the religious event, informs the public of the event's compliance with the law, and avoids disruption of the religious event; and, second, it provides the hosting venue with a degree of recourse in the event that more than 49 people attempt to attend, in which case the police may have the authority to order the removal of people from the premises. Venues in particular, should consider a written agreement with hosts which includes language advising them and the guests that any religious ceremony may be cancelled or participants may be removed if more than the allowed numbers of participants unexpectedly arrive.

b. Participant List. Parties should provide a list of all people in attendance, with names, addresses, and phone numbers, which can be checked by hosting venues upon guest arrival, for two purposes: First, a participant list provides a method by which the venue can keep track of all those in attendance for compliance purposes, both for proving the number present during the event, and for evidence of how many actually attended if any question arises post-event; and, second, in the unfortunate circumstance that people who were present during the event later contract Covid-19 disease, a participant list will be essential for "contact tracing" those who might have been exposed, notifying them, reporting to local health officials, and potentially instituting an appropriate level of quarantine.

c. Consent and Liability Waiver. As Connecticut is expected to slowly emerge from the present health crisis over the next several weeks, it may be the “new normal” that hosts and venues for weddings or other similar religious gatherings will need to obtain liability waivers from guests addressing the risk of contracting Covid-19 when gathered with others. It may be advisable that in communicating participation and distancing requirements with guests that a consent and liability waiver be signed by all attendees upon arrival. An appropriately drafted liability waiver can serve as acknowledgement of the risk of attending the ceremony, even with appropriate distancing and face coverings, and hold harmless both hosts and venues from certain claims for personal injury, including death, arising from event attendance and the possible contraction of the Covid-19 virus.

d. Force Majeure. Venues should also strongly consider including a *force majeure* or similar provision in contracts or other communications with their customers. Because the laws, and future Executive Orders may continue to change due to the uncertain nature of the Covid-19 virus itself, planned events may need to be quickly and dramatically altered in terms of guest numbers and accommodations or even canceled completely. It is best to include contractual provisions which limit the potential liability of the host venue in the event of such an unwelcome occurrence beyond its control.

As explained above, determining the compliance of a ***Religious, Spiritual or Worship gathering*** such as a wedding, with current laws and Executive Orders, is complex and requires the careful evaluation of a myriad of factors.

If you are a restaurant, banquet facility or similar venue owner, a bride or groom or a host of an upcoming event with questions regarding these issues, please contact Brian Hoeing at [bhoeing@uks.com](mailto:bhoeing@uks.com) | (860) 548-2678 or Richard D. Carella at [rcarella@uks.com](mailto:rcarella@uks.com) | (860) 548-2681.

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