State of North Carolina

ROY COOPER

GOVERNOR

September 30, 2020

EXECUTIVE ORDER NO. 169

RESTRICTIONS TO PROTECT LIVES DURING THE COVID-19 PANDEMIC: PHASE 3

The COVID-19 Public Health Emergency

WHEREAS, on March 10, 2020, the undersigned issued Executive Order No. 116 which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 ("COVID-19") public health emergency and provide for the health, safety, and welfare of residents and visitors located in North Carolina; and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States issued an emergency declaration for all states, tribes, territories, and the District of Columbia, retroactive to March 1, 2020, and the President declared that the COVID-19 pandemic in the United States constitutes a national emergency; and

WHEREAS, on March 25, 2020, the President approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, in responding to the COVID-19 pandemic, and for the purpose of protecting the health, safety, and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 124-125, 129-131, 133-136, 138-144, 146-153, 155-157, and 161-165; and

WHEREAS, more than 210,000 people in North Carolina have had COVID-19, and over 3,500 people in North Carolina have died from the disease; and

Current Metrics

WHEREAS, since the declaration of a state of emergency in Executive Order No. 116, North Carolina has accumulated increased PPE for health care workers and first responders, has developed health care protocols and procedures for the treatment of COVID-19, and has adopted measures to promote social distancing, the use of Face Coverings, and hygiene measures that reduce transmission of COVID-19; and

WHEREAS, slowing and controlling community spread of COVID-19 is critical to ensuring that the state's healthcare facilities remain able to accommodate those who require

medical assistance and remain able to reduce morbidity and mortality from COVID-19 in North Carolina; and

WHEREAS, so long as health care systems continue to be projected to have sufficient capacity for patient care, commerce and gatherings may resume and continue under reasonable restrictions; and

WHEREAS, there have been recent modest declines, compared to July levels, in the percent of emergency department visits that are for COVID-19-like illnesses, daily new case counts, the percent of COVID-19 tests that are positive, and COVID-19-associated hospitalizations; and

WHEREAS, the percent of emergency department visits that are for COVID-19-like illnesses, daily case counts, the percent of COVID-19 tests that are positive, and COVID-19-associated hospitalizations have shown stabilization, but remain elevated; and

WHEREAS, COVID-19 daily case counts and associated hospitalizations are above their levels on May 20, 2020, when the state announced Phase Two of COVID-19 restrictions and reopening; and

WHEREAS, these trends and considerations require the undersigned to continue certain public health restrictions to slow the spread of this virus during the pandemic; and

Need for a Phased, "Dimmer Switch" Approach to Loosening Restrictions

WHEREAS, the stabilization of North Carolina's key metrics is fragile, necessitating that the state exercise caution in loosening restrictions (particularly in high-risk settings); and

WHEREAS, to slow the spread of COVID-19 and reduce COVID-19 morbidity and mortality, it remains necessary to use a phased, "dimmer switch" approach to reducing restrictions on businesses and activities, with some businesses and activities that pose an increased risk for COVID-19 spread remaining closed, since the loosening of each restriction on businesses and activities adds incremental risk and thereby increases the aggregate risk of spread of COVID-19; and

WHEREAS, in this phased approach, the undersigned must factor into the analysis the risk from all activities in and affecting North Carolina, not only activities covered by the Executive Orders; and

WHEREAS, certain types of businesses by their very nature present greater risks of the spread of COVID-19 because of the nature of the activity, the way that people have traditionally acted and interacted with each other in that space, and the duration that people stay in the establishment; and

WHEREAS, the reopening of some K-5 schools for in-person learning under "Plan A" and the reopening of some entertainment facilities at reduced capacity will increase the state's COVID-19 risk; and

WHEREAS, to balance out this additional risk, it is necessary to continue to restrict certain kinds of businesses and operations to prevent COVID-19 morbidity and mortality and so that North Carolina's health care facilities continue to have sufficient capacity and resources to care for those who become sick; and

WHEREAS, to lower the risk of contracting and transmitting COVID-19, this Executive Order imposes restrictions on certain businesses designed to limit the number of contacts between people, particularly in settings in which people exert increased respiratory effort, that are indoors, that involve people being in close physical contact for an extended period of time (more than 15 minutes), or that involve a large number of people; and

Cautious Lifting of Certain Restrictions While Maintaining Other Restrictions

Amusement Parks

WHEREAS, amusement parks feature lower risks of spreading COVID-19 in their outdoor areas, so long as waiting lines remain socially distanced and high-touch areas are disinfected; and

WHEREAS, amusement parks and amusement-park-like transportation may therefore reopen, subject to capacity limitations, Face Covering requirements, measures to ensure that people remain socially distanced, signage requirements, and cleaning requirements; and

WHEREAS, indoor rides and attractions must remain closed, because indoor rides may bring large groups of people together, without the ability to social distance, and who may scream or shout, spreading respiratory droplets in a confined space without air circulation; and

Bars, Night Spots, and Arenas

WHEREAS, across the country, COVID-19 spread has been repeatedly linked to Bars (as defined below), and in many states, rises in case counts have been temporally associated with the reopening of Bars; and

WHEREAS, in Bars, people's risk of spreading COVID-19 is higher for many reasons, including because people traditionally engage in activities in Bars that result in increased respiratory effort, because people traditionally mingle in Bars and are in close physical contact for an extended period of time, and because people are less cautious when they drink alcoholic beverages; and

WHEREAS, these risks are mitigated, although not eliminated, in outdoor spaces where air circulates freely; and

WHEREAS, for these reasons and others, it is prudent to continue to limit Bar operation by requiring that all Guests be seated at tables and counters, separating Guests so that different groups are socially distanced, and by closing all indoor seating areas; and

WHEREAS, lounges, music halls, night clubs, adult entertainment facilities, and stadiums share many of the same risks of Bars, but these risks can be mitigated if capacity restrictions are put in place and if the facility is required to be seated, which will counteract the tendency of Guests in these facilities to mingle and spread COVID-19 among one another like they are in a Bar; and

WHEREAS, larger crowds in entertainment venues increase the likelihood of a super-spreading event, and therefore crowds must be limited to an overall maximum limit; and

WHEREAS, because COVID-19 spreads more easily in indoor settings, this overall maximum limit must be lower in indoor settings; and

WHEREAS, to reduce the risk of spread of COVID-19, these facilities should also operate under Face Covering requirements, signage requirements, and cleaning requirements; and

Movie Theaters, Meeting Spaces, and Entertainment Facilities

WHEREAS, the COVID-19 risks for movie theaters, hotels, conference centers, and other event spaces can be mitigated, although not entirely eliminated, if capacity restrictions are put in place and if Guests do not circulate around the establishment to socialize with each other; and

WHEREAS, to reduce the risk of spread of COVID-19, when movie theaters, meeting spaces, and entertainment facilities reopen or host larger events, they must be subject to capacity limitations, Face Covering requirements, measures to ensure that people remain socially distanced, signage requirements, and cleaning requirements; and

Outdoor Facilities With Capacity of At Least 10,000 Seats

WHEREAS, Guests at very large outdoor facilities (facilities with more than 10,000 seats) for entertainment and sporting events have a lower risk of contracting and transmitting COVID-19 because air circulates freely in outdoor spaces and because people can easily spread out in very large spaces by staying six (6) feet apart; and

WHEREAS, Guests at very large outdoor facilities for entertainment and sporting events also have a lower risk of contracting and transmitting COVID-19 because very large facilities have multiple entrances and exits and larger concourses, reducing crowding and allowing guests to maintain adequate social distance from one another as they move around the facility; and

WHEREAS, the risk at very large outdoor facilities is also lowered because these facilities have the resources, staff, and capability to design, implement, and enforce enhanced health and safety measures for Guests; and

WHEREAS, based on the state's currently improving COVID-19 metrics and the factors that lower risk of COVID-19 transmission for very large outdoor facilities, the undersigned has determined that such facilities may allow more guests that previously allowed, but because of the risks that continue to exist for any place where larger groups of people gather, the very large outdoor facilities that are reopening must be subject to capacity restrictions that will limit spectators to a small fraction of such facilities' capacity; and

WHEREAS, to reduce the risk of spread of COVID-19, when the very large outdoor facilities accommodate more Guests, they also must be subject to capacity limitations, Face Covering requirements, measures to ensure that people remain socially distanced, signage requirements, and cleaning requirements; and

Face Coverings

WHEREAS, Face Coverings over the mouth and nose can decrease the spread of respiratory droplets from people, and evidence in numerous recent studies has shown that the use of Face Coverings decreases the spread of COVID-19; and

WHEREAS, under Executive Order No. 147, Face Coverings are required in many types of businesses, but businesses have the discretion to accommodate people who cannot wear Face Coverings by serving them curbside, using home delivery, or using other means to protect against the spread of COVID-19; and

WHEREAS, guidance from the U.S. Centers for Disease Control and Prevention ("CDC") recommends that all employers encourage workers to wear a Face Covering at work; and

WHEREAS, guidance from the North Carolina Department of Health and Human Services ("NCDHHS") strongly recommends that all individuals wear a Face Covering when they may be less than six (6) feet from other people, and that businesses and organizations provide Face Coverings or Surgical Masks for workers, as appropriate; and

WHEREAS, based on this guidance, employers who have North Carolina workers who perform work outside of their home should make their best efforts to provide Face Coverings or Surgical Masks for workers, as appropriate; and

WHEREAS, the American Academy of Pediatrics recommends the use of Face Coverings for children above the age of two (2) to limit the spread of COVID-19; and

WHEREAS, all people above the age of two (2) years old in North Carolina should use a Face Covering to reduce the spread of COVID-19, but some populations may experience increased anxiety and fear of bias and being profiled if wearing Face Coverings in public spaces; and

WHEREAS, if someone is the target of ethnic or racial intimidation as the result of adhering to the Face Covering provision or as a result of the pandemic, they are encouraged to report the matter to law enforcement or another government entity; and

Late Night Service of Alcoholic Beverages

WHEREAS, some restaurants or Bars stay open until early morning hours with limited food service but with continued consumption of alcohol, and patrons frequenting those businesses during late hours often do not maintain social distancing; and

WHEREAS, the CDC and NCDHHS have stated that the consumption of alcohol lowers inhibitions and makes people more likely to engage in behaviors that increase the risk of spread of COVID-19; and

WHEREAS, the consumption of alcohol makes people less likely to practice social distancing or wear Face Coverings that are required by this Executive Order; and

WHEREAS, people who are drinking beverages cannot consistently wear Face Coverings; and

WHEREAS, when people gather to consume alcohol in public, they often speak loudly, laugh, yell, or sing, spreading respiratory droplets that may contain the COVID-19 virus; and

WHEREAS, national and international outbreaks of COVID-19 have been linked to places like bars, clubs, and restaurants where people consume alcohol in close proximity to one another, and to super-spreading events in which a single person infects a large number of people; and

WHEREAS, data reveals that there is an increase in the number of younger individuals who are being infected by COVID-19; and

WHEREAS, some, but not all, county and municipal governments have imposed restrictions on the sale of alcohol as part of their efforts to prevent the spread of COVID-19; and

WHEREAS, the undersigned, in consultation with the Secretary of Health and Human Services, the Secretary of the Department of Public Safety, and the Director of the Division of Emergency Management, has determined that limitations on the sale of alcohol in businesses and other establishments that serve alcohol to the public for on-premises consumption is necessary to counter the spread of COVID-19; and

The Need for Continued Vigilance

WHEREAS, should there be an increase in the percentage of emergency department visits that are due to COVID-19-like illness, a consistent increase in the number of laboratory-confirmed cases, an increase in the positive tests as a percent of total tests, an increase in COVID-19-related hospitalizations that threaten the ability of the health care system to properly respond, or should the state's ability to conduct testing and tracing be compromised, it may be necessary to reinstate certain restrictions eased by this Executive Order so as to protect the health, safety, and welfare of North Carolinians; and

WHEREAS, businesses that are open during the duration of this Executive Order are encouraged to follow the Guidelines for Businesses published by NCDHHS, as well as any other NCDHHS guidance applicable to their business model, available electronically on the NCDHHS website; and

Statutory Authority and Determinations

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate Gubernatorial vested authority under the Emergency Management Act and to provide for the sub-delegation of that authority; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.12(3)(e), the Division of Emergency Management must coordinate with the State Health Director to revise the North Carolina Emergency Operations Plan as conditions change, including making revisions to set "the appropriate conditions for quarantine and isolation in order to prevent the further transmission of disease," and following this coordination, the Emergency Management Director and the State Health Director have recommended that the Governor develop and order the plan and actions identified in this Executive Order; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.23 in conjunction with N.C. Gen. Stat. §§ 75-37 and 75-38, the undersigned may issue a declaration that shall trigger the prohibitions against excessive pricing during states of disaster, states of emergency or abnormal market disruptions; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the undersigned may take such action and give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of the Emergency Management Act and with the orders, rules, and regulations made thereunder; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(i), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because not all local authorities have enacted such appropriate ordinances or issued such appropriate declarations restricting the operation of businesses and limiting person-to-person contact, thus needed control cannot be imposed locally; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(ii), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because some but not all local authorities have taken implementing steps under such ordinances or declarations, if enacted or declared, in order to effectuate control over the emergency that has arisen; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(iii), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because the area in which the emergency exists spreads across local jurisdictional boundaries and the legal control measures of the jurisdictions are conflicting or uncoordinated to the extent that efforts to protect life and property are, or unquestionably will be, severely hampered; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(iv), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection of lives and property of North Carolinians because the scale of the emergency is so great that it exceeds the capability of local authorities to cope with it; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(1) authorizes the undersigned to prohibit and restrict the movement of people in public places; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(2) authorizes the undersigned to prohibit and restrict the operation of offices, business establishments, and other places to and from which people may travel or at which they may congregate; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(3) authorizes the undersigned to restrict the possession, transportation, sale, purchase, and consumption of alcoholic beverages; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(5) authorizes the undersigned to prohibit and restrict other activities or conditions, the control of which may be reasonably necessary to maintain order and protect lives or property during a state of emergency; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(1), when the undersigned imposes the prohibitions and restrictions enumerated in N.C. Gen. Stat. § 166A-19.31(b), the undersigned may amend or rescind the prohibitions and restrictions imposed by local authorities.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Introduction.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

1.1. Definitions.

a. "Amusement Park" has the definition at N.C. Gen. Stat. § 95-111.3, except that it does not include waterslides as defined by N.C. Gen. Stat. § 95-111.3(h).

b. "Amusement Transportation" means tour buses, tour trains, or other scenic and sightseeing transportation that is principally offered and used for amusement, regardless of whether such transportation is located in an Amusement Park.

c. "Bars" means establishments that are not eating establishments or restaurants as defined in N.C. Gen. Stat. §§ 18B-1000(2) and 18B-1000(6), that have a permit to sell alcoholic beverages for onsite consumption under N.C. Gen. Stat. § 18B-1001, and that are principally engaged in the business of selling alcoholic beverages for onsite consumption.

d. "Core Signage, Screening and Sanitation Requirements" are the following actions which establishments open to the public under the terms of this Executive Order must follow, namely:
    1. Post the Emergency Maximum Occupancy in a noticeable place.
    2. Post signage reminding Guests and workers about social distancing (staying at least six (6) feet away from others) and requesting that people who have been symptomatic with fever and/or cough not enter.
    3. Conduct daily symptom screening of workers, using a standard interview questionnaire of symptoms before workers enter the workplace.
    4. Immediately isolate and remove sick workers.
    5. Perform frequent and routine environmental cleaning and disinfection of high-touch areas with an EPA-approved disinfectant for SARS-CoV-2 (the virus that causes COVID-19).

e. "Emergency Maximum Occupancy" means the maximum occupancy for a facility (or room within a facility, as applicable) under this Executive Order.

f. "Face Covering" means a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears and fits snugly against the side of a person's face. A Face Covering can be made of a variety of synthetic and natural fabrics, including cotton, silk, or linen. Ideally, a Face Covering has two (2) or more layers. A Face Covering may be factory-made, sewn by hand, or can be improvised from household items such as scarfs, bandanas, t-shirts, sweatshirts, or towels. These Face Coverings are not intended for use by healthcare providers in the care of patients.

Based on recommendations from the CDC, face shields do not meet the requirements for Face Coverings.

g. "Guest" means any attendee, customer, guest, member, patron, spectator, or other person lawfully on the property of another that does not own the property or work at the property.

h. "N95 Respirator" means a Face Covering approved by the National Institute for Occupational Safety and Health ("NIOSH") or a respirator from another country allowed by the Occupational Safety & Health Administration, the Food & Drug Administration, or the CDC. N95 respirators are not recommended for general public use or use in public settings, as they should be reserved for healthcare providers and other medical first responders in a health care setting. However, if worn, N95 respirators would meet both the Face Covering and Surgical Mask requirements of this Executive Order.

i. "Personal Care, Grooming, and Tattoo Businesses" means businesses that (i) do not provide health care services; and (ii) either (1) have workers directly touch Guests or (2) have a piece of equipment (other than a touchscreen) repeatedly come into contact directly with Guests' skin. This includes, but is not limited to, barber shops, beauty salons (including but not limited to waxing and hair removal centers), hair salons, nail salons, manicure or pedicure providers, tattoo businesses, tanning salons, and massage therapists.

j. "Playground" means a recreation area for children equipped with playground equipment, including but not limited to soft contained play equipment, swings, seesaws, slides, stationary spring-mounted animal features, jungle gyms, rider-propelled merry-go-rounds, and trampolines.

k. "Recommendations to Promote Social Distancing and Reduce Transmission" are defined in Subsection 1.4 below.

l. "Restaurants" means permitted food establishments, under N.C. Gen. Stat. § 130A-248, and other establishments that both prepare and serve food. This includes, but is not limited to, restaurants, cafeterias, food halls, dining halls, food courts, and food kiosks. This includes not only free-standing locations but also locations within other businesses or facilities, including, but not limited to airports, shopping centers, educational institutions, or private or members-only clubs where food and beverages are permitted to be consumed on premises.

m. "Retail Business" means any business in which Guests enter a space to purchase goods or services, including but not limited to grocery stores, convenience stores, large-format retail stores, pharmacies, banks, and ABC stores. This also includes, but is not limited to, (i) retail establishments operated by the state, its political subdivisions, or agencies thereof, and (ii) state agencies under the jurisdiction of the undersigned which have a public-facing component offering a service, such as the Division of Motor Vehicles, the North Carolina Department of Revenue, and shops in North Carolina Department of Natural and Cultural Resources facilities.

n. "Surgical Mask" means American Society for Testing and Materials ("ASTM") Level 1, 2, or 3 approved procedural and surgical masks.

o. "Very Large Outdoor Facilities" are defined in Subsection 6.1 below.

1.2. **Exemptions**.

Worship, religious, and spiritual gatherings, funeral ceremonies, wedding ceremonies, and other activities constituting the exercise of First Amendment rights are exempt from all the requirements of this Executive Order, notwithstanding any other provision of this Executive Order.

The undersigned strongly urges that entities and individuals engaging in these exempted activities follow the Recommendations to Promote Social Distancing and Reduce Transmission, wear and require Face Coverings, and avoid exceeding Emergency Maximum Occupancy in the places where they meet.

1.3. **Structure of This Executive Order**.

To control the spread of COVID-19 and protect lives during the State of Emergency, this Section lists restrictions on the operations of business establishments and other places to or from which people may travel or at which they may congregate. Businesses or operations within the scope of Sections 2 to 6 are prohibited from operating unless they follow all applicable restrictions stated in these sections.

1.4. **General Recommendations**.

a. **High-Risk Individuals Encouraged to Stay at Home**. People who are at high risk of severe illness from COVID-19 are very strongly encouraged to stay home and travel only for absolutely essential purposes. The Centers for Disease Control and Prevention ("CDC") defines high-risk individuals as people 65 years or older **and people of any age who have serious underlying medical conditions**, including people who are immunocompromised or who have cancer, chronic lung disease, serious heart conditions, severe obesity, diabetes, chronic kidney disease, sickle cell disease, or Type 2 diabetes mellitus.

b. **Follow the Recommendations to Promote Social Distancing and Reduce Transmission**. When people are outside their homes, they are strongly encouraged to follow the following Recommendations to Promote Social Distancing and Reduce Transmission:
   1. Maintain at least six (6) feet social distancing from other individuals, with the exception of family or household members.
   2. Wear a Face Covering over the nose and mouth when leaving home and wear it inside all public settings such as grocery stores, pharmacies, or other retail or public-serving businesses. A Face Covering should also be worn outdoors when you cannot maintain at least six (6) feet distancing from other people with the exception of family or household members.
   3. Carry hand sanitizer with you when leaving home, and use it frequently.
   4. Wash hands using soap and water for at least twenty (20) seconds as frequently as possible.
   5. Regularly clean high-touch surfaces such as steering wheels, wallets, and phones.
   6. Avoid large gatherings.
   7. Stay at home if sick.

Section 2. Face Coverings.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

2.1. **Face Coverings Required In Public Places.** The undersigned enacts the following restriction on the movement of people in public places and restriction on the operation of offices, business establishments, and other places where people may travel or congregate. Face Coverings must be worn in any public place, business or establishment, indoor or outdoor, where it is not possible to consistently be physically distant by more than six (6) feet from non-household members.

2.2. **Restrictions in Section 3.** In this Executive Order, Section 3 states a series of specific Face Covering requirements that implement the general Face Covering requirement stated above in customized ways for certain types of businesses and establishments.

2.3. **Employer Good Faith Obligation to Provide Face Coverings**. Employers who have workers who perform work outside of their home in North Carolina and have not already

provided Face Coverings for their workers shall make good-faith efforts to provide a one-week supply of reusable Face Coverings or a new disposable Face Covering daily as soon as possible for workers to use at their place of employment. New Face Coverings should be provided during the work day if the worker's Face Covering becomes soiled, torn, or wet.

2.4. **Exceptions**. This Executive Order does not require Face Coverings for—and a Face Covering does not need to be worn by—a worker or Guest who:

a. Should not wear a Face Covering due to any medical or behavioral condition or disability (including, but not limited to, any person who has trouble breathing, or is unconscious or incapacitated, or is otherwise unable to put on or remove the Face Covering without assistance);
b. Is under five (5) years of age;
c. Is actively eating or drinking;
d. Is strenuously exercising;
e. Is seeking to communicate with someone who is hearing-impaired in a way that requires the mouth to be visible;
f. Is giving a speech for a broadcast or to an audience;
g. Is working at home or is in a personal vehicle;
h. Is temporarily removing his or her Face Covering to secure government or medical services or for identification purposes;
i. Would be at risk from wearing a Face Covering at work, as determined by local, state, or federal regulations or workplace safety guidelines;
j. Has found that his or her Face Covering is impeding visibility to operate equipment or a vehicle; or
k. Is a child whose parent, guardian, or responsible person has been unable to place the Face Covering safely on the child's face.

Anyone who declines to wear a Face Covering for these reasons should not be required to produce documentation or any other proof of a condition.

Children under two (2) years of age should not wear a Face Covering.

2.5. **Application of Exceptions**. Under this Executive Order, all North Carolinians will be on the honor system about whether or not there is a reason why they cannot wear a Face Covering. Everyone in this state is asked to tell the truth and—if they are healthy and able to wear a mask—to wear a Face Covering so that they do not put other people at risk of serious illness and death.

2.6. **How Businesses May Accommodate Exceptions**. If a Guest states that an exception applies, a business may choose to offer curbside service, provide home delivery, or use some other reasonable measure to deliver its goods or services.

2.7. **Enforcement of Face Covering Requirements**.

a. Citations under this Section shall be written only to businesses or organizations that fail to enforce the requirement to wear Face Coverings. Operators of businesses and organizations are entitled to rely on their Guests' representations about whether or not they are excepted from the Face Covering requirements, and businesses and organizations do not violate this Executive Order if they rely on Guests' compliance.

b. Law enforcement personnel are not authorized to criminally enforce the Face Covering requirements of this Executive Order against individual workers or people.

c. However, if a business or organization does not allow entry to a worker or Guest because that person refuses to wear a Face Covering, and if that worker or Guest enters the premises or refuses to leave the premises, law enforcement personnel may enforce the trespassing laws and any other laws (other than N.C. Gen. Stat. § 14-288.20A) that the worker or Guest may violate.

Section 3. Restrictions on Certain Businesses and Operations.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

3.1. **Amusement Parks**. Amusement Parks and Amusement Transportation may reopen and operate under the following restrictions:

a. Indoor Rides and Attractions Closed.

1. In an Amusement Park, any ride or attraction that is located indoors must remain closed. The Amusement Park may open indoor Restaurants, concessions, gifts shops or retail spaces, and restrooms.

2. Museums, playgrounds, or other establishments that are open may not operate any indoor motion simulator.

b. Restrictions.

1. Face Coverings. All workers and Guests must wear Face Coverings when they are or may be on premises or on transportation operated by the establishment.

2. Capacity Restrictions.

a. For the Facility As A Whole. The operator must limit the total number of Guests in the establishment to thirty percent (30%) of the park's normal maximum occupancy.

b. On each Ride or Amusement Transportation. The operator must limit the number of Guests within each vehicle or car to either:

- Have all the Guests within a vehicle or car be people who came into the ride loading area together as part of the same group of friends or family; or
- Ensure six feet of social distancing between each group of friends or family within the vehicle or car.

c. All other group activities, such as tours, receptions, or parties, are subject to the Mass Gathering limit stated in Section 5 of this Executive Order.

3. Other Requirements. The operator must:

a. Spread out waiting lines for rides, amusements, and other areas where people may congregate or wait, with each group separated by six (6) feet.
b. The operator must mark six (6) feet of spacing along the line and in waiting areas for rides and amusements and other areas where people may congregate or wait.
c. Establish a Guest flow plan that limits people massing together throughout the park and when they are entering or exiting the park.
d. Increase disinfection during high customer density times.
e. Provide alcohol-based hand sanitizer (with at least 60% alcohol) at the entrance and at other areas throughout the premises as needed. Promote frequent use of handwashing and hand sanitizer for workers and Guests.
f. Disinfect shared objects and surfaces (such as game surfaces, safety bars, or harnesses) between uses.
g. Follow the restrictions set out in Subsections 3.13, 3.14, and 4 of this Executive Order for any food, beverage, and retail service.
h. Follow the Core Signage, Screening and Sanitation Requirements as defined in this Executive Order.

3.2. **Bars, Night Spots, and Arenas**.

a. This Subsection applies to the following:
- Bars
- Lounges (such as cigar bars and hookah lounges) in which tobacco or related products are consumed on premises
- Auditoriums, amphitheaters, arenas, and other venues for live performances
- Music halls, night clubs, or dance halls
- Adult entertainment facilities
- Spectator stands and viewing areas at a sporting facility, stadium, sporting complex, or speedway

b. Must be Seated. A facility covered by this Subsection is closed unless it is or becomes a seated establishment for Guests.

c. Indoor Restrictions.
1. Bars.
   - Bars' indoor seating areas and indoor amenities (such as pool and billiards tables) must be closed.
   - Bars must not serve alcoholic beverages for on-site consumption in any indoor area on their premises.
2. Non-Bar Night Spots and Arenas.
   - Indoor seating areas at all other facilities covered by this Subsection may be open, but are restricted to 25 Guests per facility.
   - All facilities covered by this Subsection must not serve alcoholic beverages for on-site consumption in any indoor area on their premises.

d. Outdoor Restrictions.
1. Bars, Night Spots, and Arenas.
   - Outdoor seating areas may be open at Bars and all other facilities covered by this Subsection. Guests in outdoor areas must be limited to the lesser of:
     - 100 people for the total seating area (or, if there are multiple fields of play or stages, per field of play or per stage); or
     - Thirty percent (30%) of the facility's stated outdoor occupancy before reductions under this Executive Order (or, for spaces without a stated outdoor occupancy, no more than seven (7) Guests for every one thousand (1000) square feet of the outdoor area's square footage).
   - A facility covered by this Subsection may serve alcoholic beverages for on-site consumption in outdoor seating areas on its premises, subject to applicable local and state regulations.

e. Interpretation of Capacity Restrictions in this Subsection.
1. Workers, entertainers, athletes, and any other support staff do not count toward the capacity limits stated in Subsections 3.2(c) and 3.2(d) immediately above.
2. Any facility that meets the definition of "Restaurant" in this Executive Order is covered by Subsection 3.13 of this Executive Order and not this Subsection.
3. A facility is excepted from the limits stated in this Subsection if it is a Very Large Outdoor Facility covered by Section 6 of this Executive Order.
4. Outdoor amenities may be open at Bars and other facilities covered by this Subsection.
5. Nothing in this Executive Order prevents establishments from opening up or expanding outdoor seating areas, subject to applicable local and state regulations.

f. Social Distancing Requirements.

1. Space Out Guests. Each group of Guests must be seated so that they are spaced out by six (6) feet in all directions from other groups of Guests. Each group of Guests sitting at a counter should be separated from other groups by six (6) feet. Entertainers also must stay at least six (6) feet away from any Guest.

2. Ordering Area. Bars not using waitstaff must designate an ordering area at the bar. This area must allow each Guest to wait six (6) feet apart from other Guests. If necessary, Guests may place their orders by coming inside the Bar's building; however, Guests must consume their beverages in outdoor seating areas only.

g. Face Coverings. All workers and Guests must wear Face Coverings when they are or may be within the facility.

h. Other Requirements. Facilities covered by this Subsection must:
1. Restrict late night service of alcoholic beverages as stated in Section 4 of this Executive Order.
2. Follow the restrictions set out in Sections 3.13 of this Executive Order for any food or beverage service.
3. Mark six (6) feet of spacing in lines at high-traffic areas for Guests.
4. Promote frequent use of hand-washing and hand sanitizer for wait staff and food service staff throughout the shift and upon reporting to work. Hand washing must at least meet the requirements specified in the North Carolina Food Code Manual.
5. Provide alcohol-based hand sanitizer (with at least 60% alcohol) at the entrance and at other areas throughout the premises as needed. Promote frequent use of handwashing and hand sanitizer for workers and Guests.
6. Increase disinfection during peak times or high Guest density times, and disinfect all shared objects (e.g., payment terminals, tables, countertops/bars, receipt trays, and reusable menus) between use.
7. Follow all applicable requirements in NCDHHS guidelines.
8. Follow the Core Signage, Screening and Sanitation Requirements as defined in this Executive Order.

i. Miscellaneous Provisions on Bars.

1. Clarifications. People sitting at a table need not be members of the same household and do not need to stay six (6) feet apart. Moreover, this Executive Order does not require waitstaff to stay six (6) feet away from Guests.

2. Off-Site Consumption. This Executive Order does not direct the closure of retail beverage venues that provide for the sale of beer, wine, and liquor for off-site consumption only. It also does not require the closure of production operations at breweries, wineries, or distilleries.

3.3. **Child Care Facilities**. Subsections 3.2(d) and 6.6 of Executive Order No. 163 are incorporated into this Section as if they were stated herein.

3.4. **Children's Day or Overnight Camps**. Subsections 3.2(d) and 6.7 of Executive Order No. 163 are incorporated into this Section as if they were stated herein.

3.5. **Fitness and Physical Activity Facilities**.

a. This Subsection applies to "Fitness and Physical Activity Facilities," defined as any of the following:
- Exercise facilities (e.g., yoga studios, dance studios, ballrooms for dancing, martial arts facilities, gymnastics, indoor trampoline and rock climbing facilities)
- Gyms

- Fields of play, including but not limited to basketball courts, baseball fields, volleyball courts, racquetball courts, squash courts, hockey rinks, soccer fields, and tennis courts (with spectators, if any, limited as stated in Subsection 3.2 of this Executive Order)
- Health clubs and fitness centers
- Boxing clubs
- Skating rinks
- Bowling alleys
- Golf courses and driving ranges
- Golf ball hitting bays
- Mini-golf courses
- Go-cart tracks
- The track for any speedway or raceway (with spectators, if any, limited as stated in Subsection 3.2 of this Executive Order)
- Paintball, laser tag, and similar fields and arenas
- Indoor Playgrounds

b. Face Coverings. All workers must wear Face Coverings when they are or may be within six (6) feet of another person, unless the worker is strenuously exercising. All Guests must wear Face Coverings when they are inside the establishment and not strenuously exercising.

c. Capacity Restrictions.

1. Indoor Areas. Fitness and Physical Activity Facilities must limit Guests in indoor areas to the lowest number produced by applying the following two tests:

a. Overall. Limit the number of Guests in the facility to thirty percent (30%) of stated fire capacity (or, for spaces without a stated fire capacity, no more than seven (7) Guests for every one thousand (1000) square feet of the location's total square footage, including the parts of the location that are not accessible to Guests).

b. In Any Room. Limit the number of Guests in any given room of the facility so that everyone can stay six (6) feet apart.

2. Outdoor Areas. Fitness and Physical Activity Facilities must limit Guests in outdoor areas to twelve (12) Guests for every one thousand (1000) square feet.

3. Games or Events With Spectators. The capacity restrictions for facilities in Subsection 3.2 above, not the capacity restrictions in Subsections 3.5(c)(1)-(2) above, apply to Fitness and Physical Activity Facilities whenever they host a game with spectators.

4. A Fitness and Physical Activity Facility is excepted from the limits stated in this section if it is a Very Large Outdoor Facility covered by Section 6 of this Executive Order.

d. Social Distancing Measures.

1. Spread Out Guests and Equipment. Operators of Fitness and Physical Activity Facilities must:

a. For activities involving Guests spread out among fixed equipment or lanes, tape off or move the equipment, or restrict access to lanes, so that the Guests conducting the exercise activity are at least six (6) feet apart.

b. For group classes or group activities, ensure that all Guests are spaced at least six (6) feet apart. Instructors may come within six (6) feet of students for brief periods of time (less than 15 minutes).

2. Seating in Waiting Areas. For Guests waiting to take their turn in the activity, operators must space out any seating so that Guests can be socially distanced and stay six (6) feet apart from each other.

e. Other Requirements. Operators of Fitness and Physical Activity Facilities must:
   1. Promote frequent use of hand washing and hand sanitizer for workers and Guests. Require workers to wash hands immediately upon reporting to work, after contact with Guests, after performing cleaning and disinfecting activities, and frequently throughout the day.
   2. Disinfect all shared equipment between users with an EPA-approved disinfectant for SARS-CoV-2 (the virus that causes COVID-19). Allow the disinfectant to sit for the adequate amount of time stated by the manufacturer. If Guests are to clean equipment, the establishment must provide instructions on how to properly disinfect equipment and on the adequate amount of time that the disinfectant must sit to be effective.
   3. Increase disinfection during peak times or high-population-density times.
   4. Mark six (6) feet of spacing in lines at point of sale and in other high-traffic areas for Guests.
   5. Post the Emergency Maximum Occupancy of any room or other enclosed space at the door to that space.
   6. Follow the restrictions set out in Sections 3.13 and 4 of this Executive Order for any food and beverage service.
   7. Follow the Core Signage, Screening and Sanitation Requirements as defined in this Executive Order.

3.6. **Government Operations**. Subsection 3.2(e) of Executive Order No. 163 is incorporated into this Section is if it were stated herein.

3.7. **Health Care Settings**.

a. Surgical Masks in Long Term Care Facilities. All workers in Long Term Care ("LTC") Facilities, including skilled nursing facilities ("SNF"), adult care homes ("ACH"), family care homes ("FCH"), mental health group homes, and intermediate care facilities for individuals with intellectual disabilities ("ICF-IID"), must wear Face Coverings while in the facility, and those Face Coverings must be Surgical Masks, as long as Surgical Mask supplies are available.

b. Other Health Care Settings. Health care facilities other than LTC facilities must follow the Face Covering requirements in the CDC Infection Control Guidance for Healthcare Professionals about Coronavirus (COVID-19).

c. Other Requirements. Additional requirements in health care settings can be found in Executive Order Nos. 130 and 139 and in the Secretarial Orders issued under Executive Order Nos. 152 and 165.

3.8. **Movie Theaters, Meeting Spaces, and Entertainment Facilities**.

a. This Subsection applies to meeting spaces, meeting or reception venues, and any entertainment facilities that are not covered by another provision of this Section of this Executive Order, such as Subsection 3.2 (entitled "Bars, Night Spots, and Arenas") or Subsection 3.5 (entitled "Fitness and Physical Activity Facilities"). Facilities covered by this Subsection include, but are not limited to, the following types of businesses:
   - Movie theaters
   - Private rooms or other private meeting spaces in a hotel, conference center, meeting hall, or reception venue

- Bingo parlors, including bingo sites operated by charitable organizations
- Facilities where the purpose is to engage in games of cards, such as bridge
- Gaming and business establishments which allow gaming activities (e.g., video games, arcade games, pinball machines or other computer, electronic or mechanical devices played for amusement)

b. Social Distancing Requirements. The following measures limit the degree to which Guests at the facility may come into contact with one another and spread COVID-19.

1. Must be Seated to Be Open. A facility covered by this Subsection is closed unless it is or becomes a seated establishment for Guests. Guests must be in seats except to enter, leave, visit the restroom, and obtain food or drink. Facilities should avoid scheduling a standing reception, cocktail hour, or similar event where Guests are encouraged to mingle.

2. Space Out Guests. Each group of Guests must be seated so that they are spaced out by six (6) feet in all directions from other groups of Guests. Each group of Guests sitting at a counter should be separated from other groups by six (6) feet.

c. Face Coverings. All workers and Guests must wear Face Coverings when they are or may be within the facility.

d. Capacity. Facilities covered by this Subsection must limit Guests in the facility (whether indoor or outdoor) to the lesser of:
- 100 people per cinema screen or room; or
- Thirty percent (30%) of stated fire capacity in each cinema screen or room (or, for areas without a stated fire capacity, no more than seven (7) Guests for every one thousand (1000) square feet of the Guest area's square footage).

Workers and support staff do not count toward these capacity limits. For hotels or other facilities where private meeting spaces are a portion of a larger facility that is not restricted by this Section of this Executive Order, the limits stated above are measured only for the portion of the facility that is a private meeting space.

e. Other Requirements. Facilities covered by this Subsection must:
1. Restrict late night service of alcoholic beverages as stated in Section 4 of this Executive Order.
2. Follow the restrictions set out in Sections 3.13 of this Executive Order for any food or beverage service.
3. Mark six (6) feet of spacing in lines at point of sale and in other high-traffic areas for Guests.
4. Provide alcohol-based hand sanitizer (with at least 60% alcohol) at the entrance and at other areas throughout the premises as needed. Promote frequent use of handwashing and hand sanitizer for workers and Guests.
5. Increase disinfection during peak times or high Guest density times, and disinfect all shared objects (e.g., payment terminals, tables, countertops/bars, receipt trays, condiment holders) between use.
6. Follow the Core Signage, Screening and Sanitation Requirements as defined in this Executive Order.

f. Gaming. This Executive Order does not order the closure of gaming establishments. However, nothing in this Executive Order shall be construed to authorize any gaming activity prohibited by Chapter 14 of the North Carolina General Statutes.

3.9. **Museums and Aquariums**. Subsections 3.2(*l*) and 6.9 of Executive Order No. 163 are incorporated into this Section as if they were stated herein.

3.10. **Parks**. Parks must restrict each group of Guests to be no more than the Mass Gathering limit stated below in Subsection 5.1 of this Executive Order. Subsections 7.2(a)-(b) of Executive Order No. 163 are incorporated into this Section as if they were stated herein.

3.11. **Personal Care, Grooming, and Tattoo Businesses**. Subsections 3.2(c) and 6.4 of Executive Order No. 163 are incorporated into this Section as if they were stated herein.

3.12. **Pools**. Subsection 6.5 of Executive Order No. 163 is incorporated into this Section as if it were stated herein.

3.13. **Restaurants**.

a. Subsections 3.2(b) and 6.3 of Executive Order No. 163 are incorporated into this Section as if they were stated herein.

b. Any meeting or function held in a private room in a Restaurant is covered by the capacity and other restrictions stated above in Subsection 3.8 of this Executive Order ("Movie Theaters, Meeting Spaces, and Entertainment Facilities").

3.14. **Retail Businesses**. Subsections 3.2(a) and 6.2 of Executive Order No. 163 are incorporated into this Section as if they were stated herein.

3.15. **Transportation**. Subsection 3.2(f) of Executive Order No. 163 is incorporated into this Section as if it were stated herein.

3.16. **Workplaces in Agriculture, Construction, and Manufacturing**. Subsection 3.2(g) of Executive Order No. 163 is incorporated into this Section as if it were stated herein.

Section 4. Restrictions on Late Night Service of Alcoholic Beverages.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

4.1. Any businesses or organizations that sell or serve alcoholic beverages for onsite consumption shall cease the sale and service of alcoholic beverages for onsite consumption between 11:00 pm and 7:00 am. The agents or employees of establishments that are permitted to sell or serve alcoholic beverages for onsite consumption shall likewise not sell or serve alcoholic beverages for onsite consumption between 11:00 pm and 7:00 am.

4.2. Businesses or organizations may not provide off-site table service, catering service or bartending service for the sale and consumption of alcoholic beverages between 11:00 pm and 7:00 am for the purposes of consumption at the premises where the alcoholic beverage is being served.

4.3. Businesses or organizations otherwise authorized to remain open after 11:00 pm under existing law may continue to do so under this Executive Order so long as there is no sale or service of alcohol for onsite consumption.

4.4. Nothing in this Executive Order shall be interpreted to change the laws regarding the hours of sales for alcoholic beverages for off-premises consumption or authorize sale, service, possession, transportation, or consumption of alcoholic beverages at times or places where not previously allowed before this Executive Order was issued. This Section 4 also does not provide authority to reopen any facilities (or areas of facilities) that are closed by another provision of this Executive Order.

Section 5. Mass Gatherings.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

5.1. **Prohibition**. Mass Gatherings are prohibited. "Mass Gathering" means an event or convening that brings together more than twenty-five (25) people indoors or more than fifty (50) people outdoors at the same time in a single confined indoor or outdoor space. This includes parades, fairs, and festivals. In publicly accessible indoor facilities, the Mass Gathering limit applies per room of the facility.

At a park, beach, or trail, the outdoor Mass Gathering limit of fifty (50) people applies to each group of people that may gather together.

5.2. **Exceptions from Prohibition on Mass Gatherings**. Notwithstanding the Mass Gathering limit above:

a. The prohibition on Mass Gatherings does not apply to any of the restricted businesses and operations identified in Section 3 of this Executive Order, except as specifically stated above, because in those situations, transmission of COVID-19 will be controlled through the measures specifically tailored for each situation that are listed in those Sections. The prohibition on Mass Gatherings and the capacity limits in Section 3 generally do not apply to educational institutions or government operations. The capacity limits in Sections 3.2 and 6 of this Executive Order, however, apply to educational institutions and government operations.

b. The prohibition on Mass Gatherings does not include gatherings for health and safety, to look for and obtain goods and services, for work, or for receiving governmental services. A Mass Gathering does not include normal operations at airports, bus and train stations or stops, medical facilities, libraries, shopping malls, and shopping centers. However, in those settings, people must follow the Recommendations to Promote Social Distancing and Reduce Transmission as much as possible, and they should circulate within the space so that there is minimal contact between people.

5.3. **Drive-Ins**. Events are not prohibited Mass Gatherings if the participants all stay within their vehicle, such as at a drive-in movie theater.

Section 6. Exception for Events at Very Large Outdoor Facilities.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

6.1. **Scope**. This Section applies only to venues ("Very Large Outdoor Facilities") which meet all of the following criteria:

a. Guests are seated with assigned seats; and
b. The event occurs outdoors and the majority of Guests are seated outdoors; and
c. There are at least two separate entrances and at least two exits to the facility; and
d. The total seating capacity of the facility, before reductions under this Executive Order, is ten thousand (10,000) or more.

These establishments may exceed the capacity restrictions stated in Section 3 of this Executive Order and the Mass Gathering limit stated in Section 5 of this Executive Order if they comply with all of the following restrictions.

6.2. **Capacity Restrictions at Very Large Outdoor Facilities**. The establishment must take all the following steps:

a. Overall. The operator must limit the total number of Guests in the facility to no more than seven percent (7%) of the facility's total seating capacity (measured before any reductions under this Executive Order).

b. Limiting Crowding in Concourses. The facility operator must also have staff direct or monitor the flow of Guests through common spaces to maintain social distancing as Guests enter the arena, leave the arena, or visit concession stands. The operator must also establish a guest flow plan that limits people massing together throughout the facility and when they are entering or exiting the facility.

c. Workers, entertainers, athletes, and any other support staff do not count toward these capacity limits. The capacity restrictions stated in this Section apply to sporting events held by educational or government institutions.

6.3. **Socially Distanced Seating Required**. The establishment must use assigned seats as follows:

- All events must be ticketed. No tickets shall be sold for "standing room only" or "general admission."
- The facility operator must, through the use of assigned seating, ensure that each group of Guests attending the event is actually physically separated by six (6) feet from each Guest in each other group.
- This includes not only separating each Guest group horizontally within a row, but also separating Guest groups vertically between rows so that no person has someone from another group within six (6) feet in front or behind them.
- The facility operator must have staff periodically monitor crowds to ensure that Guests do not take seats other than their assigned seats.

In this Subsection, a "group" of spectators means a set of friends or family members who bought tickets together and came into the event venue together. No group of spectators under this Section shall exceed ten (10) people.

6.4. **Face Coverings and Other Requirements Stated Above**. The Very Large Outdoor Facility must, in addition to the requirements stated in this Section, follow all applicable requirements stated in Subsection 3.2(f)-(h) of this Executive Order.

6.5. **Alcohol Sales**. Very Large Outdoor Facilities may serve alcoholic beverages for on-site consumption in outdoor or indoor seating areas on its premises, subject to applicable local and state regulations. If a Very Large Outdoor Facility has a distinct bar within its premises, consumption of alcohol must not occur within that bar area.

6.6. Very Large Outdoor Facility operators are encouraged to take their best efforts to avoid attendees gathering in areas around the facility before or after the event.

Section 7. Miscellaneous Provisions.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

7.1. **Statewide Standing Order for COVID-19 Testing**. In order to further protect the public health by providing greater access to COVID-19 testing, the undersigned orders the State Health Director, in addition to and in accordance with her powers set out in N.C. Gen. Stat. Chapter 130A, to issue any statewide standing order needed in her medical judgment that would allow individuals who meet NCDHHS criteria for testing to access and undergo testing for COVID-19, subject to the terms of the standing order. This standing order may continue for the duration of the State of Emergency.

7.2. **School and Health Officials to Continue Efforts**. NCDHHS, the North Carolina Department of Public Instruction, and the North Carolina State Board of Education are directed to continue to work together during this State of Emergency to maintain and implement measures to provide for the health, nutrition, safety, educational needs, and well-being of children being taught by remote learning.

7.3. **Effect on Local Emergency Management Orders**.

a. Most of the Restrictions in This Executive Order Are Minimum Requirements, And Local Governments Can Impose Greater Restrictions. The undersigned recognizes that the impact of COVID-19 has been and will likely continue to be different in different parts of North Carolina. Over the course of the COVID-19 emergency in North Carolina, COVID-19 outbreaks have occurred, at different times, in urban and rural areas; in coastal areas, the piedmont, and the mountains; and in a variety of employment and living settings. As such, the undersigned acknowledges that counties and cities may deem it necessary to adopt ordinances and issue state of emergency declarations which impose restrictions or prohibitions to the extent authorized under North Carolina law, such as on the activity of people and businesses, to a greater degree than in this Executive Order. To that end, nothing herein, except where specifically stated below in Subsections 7.3(b) and 7.3(c), is intended to limit or prohibit counties and cities in

North Carolina from enacting ordinances and issuing state of emergency declarations which impose greater restrictions or prohibitions to the extent authorized under North Carolina law.

b. Local Restrictions Cannot Restrict State or Federal Government Operations. Notwithstanding Subsection 7.3(a) above, no county or city ordinance or declaration shall have the effect of restricting or prohibiting governmental operations of the State or the United States.

c. Local Restrictions Cannot Set Different Retail Requirements. Notwithstanding Subsection 7.3(a) above, in an effort to create uniformity across the state for Retail Businesses that may continue to operate, the undersigned amends all local prohibitions and restrictions imposed under any local state of emergency declarations to remove any language that sets a different maximum occupancy standard for Retail Businesses or otherwise directly conflicts with Section 6.2(a)(i) of Executive Order No. 163, which is incorporated into this Executive Order by Subsection 3.14 above. The undersigned also hereby prohibits during the pendency of this Executive Order the adoption of any prohibitions and restrictions under any local state of emergency declarations that set a different maximum occupancy standard for Retail Businesses or otherwise directly conflict with Section 6.2(a)(i) of Executive Order No. 163.

7.4. **Previous Executive Orders**. This Executive Order amends, restates, and replaces Executive Order Nos. 141, 153, 162, and 163 in full, except where this Executive Order incorporates provisions of Executive Order No. 163 as if they were stated herein. Those incorporated provisions of Executive Order No. 163 are extended for the duration of this Executive Order, including any extensions or amendments of this Executive Order.

Section 8. Extension of Price Gouging Period.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

Pursuant to N.C. Gen. Stat. § 166A-19.23, the undersigned extends the prohibition against excessive pricing, as provided in N.C. Gen. Stat. §§ 75-37 and 75-38, from the issuance of Executive Order No. 116 through 5:00 pm on October 23, 2020.

The undersigned further hereby encourages the North Carolina Attorney General to use all resources available to monitor reports of abusive trade practices towards consumers and make readily available opportunities to report to the public any price gouging and unfair or deceptive trade practices under Chapter 75 of the North Carolina General Statutes.

Section 9. No Private Right of Action.

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any emergency management worker (as defined in N.C. Gen. Stat. § 166A-19.60) or any other person.

Section 10. Savings Clause.

If any provision of this Executive Order or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Section 11. Distribution.

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly

filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 12. Enforcement.

12.1. Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the provisions of this Executive Order shall be enforced by state and local law enforcement officers. Enforcement of Face Covering requirements shall be limited as stated in Subsection 2.7 of this Executive Order. Law enforcement and other public safety and emergency management personnel are strongly encouraged to educate and encourage voluntary compliance with all the provisions of this Executive Order.

12.2. A violation of this Executive Order may be subject to prosecution pursuant to N.C. Gen. Stat. § 166A-19.30(d), and is punishable as a Class 2 misdemeanor in accordance with N.C. Gen. Stat. § 14-288.20A.

12.3. Nothing in this Executive Order shall be construed to preempt or overrule a court order regarding an individual's conduct (e.g., a Domestic Violence Protection Order or similar orders limiting an individual's access to a particular place).

Section 13. Effective Date.

This Executive Order is effective October 2, 2020, at 5:00 pm. This Executive Order shall remain in effect through 5:00 pm on October 23, 2020 unless repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 30th day of September in the year of our Lord two thousand and twenty.

Roy Cooper

Roy Cooper
Governor

ATTEST:

Elaine F. Marshall

Elaine F. Marshall
Secretary of State