State of North Carolina

ROY COOPER
GOVERNOR

September 4, 2020

EXECUTIVE ORDER NO. 163
(WITH TECHNICAL CORRECTIONS)

REVISED PROHIBITIONS AND RESTRICTIONS TO PROTECT LIVES IN RESPONDING TO THE COVID-19 PANDEMIC

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 161-162; and

WHEREAS, more than one hundred sixty-nine thousand (169,000) people in North Carolina have had laboratory-confirmed cases of COVID-19, and over twenty-seven hundred (2,700) people in North Carolina have died from the disease; and

The Need to Extend COVID-19 Safety Measures

WHEREAS, hospital administrators and health care providers have expressed concerns that unless the spread of COVID-19 is limited, existing health care facilities may be insufficient to care for those who become sick; 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

WHEREAS, the undersigned has taken a series of actions to limit the spread of COVID-19, including requiring safety measures in certain business settings, limiting mass gatherings, closing certain types of businesses and operations, requiring Face Coverings (as defined below) in many places where people may travel or congregate, and limiting alcoholic beverage sales for onsite consumption; and

WHEREAS, the undersigned has also urged that all people in North Carolina follow public health recommendations, including that everyone wear a cloth Face Covering, wait six (6) feet apart and avoid close contact, and wash hands often or use hand sanitizer; and

WHEREAS, the undersigned and the Secretary of Health and Human Services have also directed hospitals, physicians' practices, and other health care entities to undertake significant actions as part of North Carolina's emergency response to address the COVID-19 pandemic; and

WHEREAS, there has been stabilization in several of North Carolina's key metrics, as emergency department visits for COVID-19 illnesses continue to decline, daily case counts are stable, the percent of COVID-19 tests that are positive are stable, and hospitalizations continue to decline; and

WHEREAS, that stabilization has been fragile, necessitating that the state remain vigilant to prevent a surge in cases and exercise caution in loosening restrictions in high-risk settings in particular; and

Need for 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 cloth 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 cloth Face Covering when they may be less than six (6) feet from other people, and that businesses and organizations provide cloth Face Coverings or Surgical Masks for workers, as appropriate; and

WHEREAS, based on this guidance, the undersigned recommends that employers who have workers who perform work outside of their home in North Carolina 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 as young as 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

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

WHEREAS, since the issuance of executive orders to slow the spread of COVID-19, North Carolina has increased its capacity to treat COVID-19, its capacity for testing and tracing, and the availability of personal protective equipment ("PPE"); and

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 recommendations to promote social distancing, the use of Face Coverings, and hygiene measures that reduce transmission of COVID-19; and

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

WHEREAS, to slow the spread of COVID-19 and reduce COVID-19 morbidity and mortality, it remains necessary to use a phased approach to reduce 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, in August 2020, many K-12 schools, both public and private, along with some colleges and universities, reopened for in-person instruction; and

WHEREAS, along with the many public health benefits, economic benefits, and societal benefits to reopening K-12 schools, colleges, and universities for in-person instruction, a return to academic instruction in both K-12 and higher education has increased the risk of community spread of COVID-19 and warrants further vigilance; and

WHEREAS, educational institutions, local educational authorities, and state officials have taken substantive measures to put health and safety protocols in place to limit the spread of COVID-19 in these educational settings; and

WHEREAS, to balance out this additional risk, it is necessary to continue to restrict certain kinds of businesses and operations, so that North Carolina can continue to have a safe margin for North Carolina's health care facilities to have sufficient capacity and resources to care for those who become sick; 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

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

Risk Factors for COVID-19 Infection

WHEREAS, the risk of contracting and transmitting COVID-19 is higher in settings that are indoors, where air does not circulate freely and where people are less likely to maintain social distancing by staying six (6) feet apart; and

WHEREAS, the risk of contracting and transmitting COVID-19 is higher in settings where people are in close physical contact for extended periods of time (more than 15 minutes); and

WHEREAS, the risk of contracting and transmitting COVID-19 is higher in settings where people have increased respiratory effort that can lead to increased spread of respiratory droplets; and

WHEREAS, the risk of contracting and transmitting COVID-19 is higher in gatherings of larger groups of people because these gatherings offer more opportunity for person-to-person contact with someone infected with COVID-19; and

WHEREAS, to lower the risk of contracting and transmitting COVID-19, this Executive Order imposes restrictions on 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

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 patrons stay in the establishment; and

Reopening Certain Facilities Under North Carolina's Phased Approach

WHEREAS, by using a phased reopening approach, North Carolina is endeavoring to manage the risk of COVID-19 exposure from a public health perspective in order to ensure that the state's health care providers have the resources and availability to protect people's lives while also allowing people to return to work and take part in activities that are integral parts of people's lives; and

WHEREAS, since the issuance of the initial Stay at Home Order, public health officials have made recommendations to the undersigned to permit operation of certain sectors of the state's economy as public health circumstances have permitted; 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

WHEREAS, the ability to visit indoor fitness facilities allows people to maintain and improve their physical and mental health; and

WHEREAS, because of these benefits from exercise, reopening indoor fitness facilities, in a manner in which is tailored to reduce the risk of spread of COVID-19, creates a greater net public health benefit than would be created by reopening entertainment facilities; and

WHEREAS, the people of North Carolina will now have the opportunity to visit indoor fitness facilities, so long as those facilities maintain safety measures such as assuring social distancing, requiring that workers and patrons wear Face Coverings except when strenuously exercising, moving or blocking off equipment so that people can exercise with social distancing, and regularly sanitizing equipment as required under this Executive Order; and

WHEREAS, museums and aquariums provide scientific and cultural education to visitors; and

WHEREAS, visitors to museums and aquariums may enjoy these facilities while avoiding close, physical contact between members of different households for an extended period of time (more than 15 minutes); and

WHEREAS, playgrounds give the opportunity for children to have physical exercise and play; and

WHEREAS, visitors to playgrounds are encouraged to wear Face Coverings over the nose and mouth, use hand sanitizer, and maintain social distancing from people outside of their households; and

WHEREAS, despite the unprecedented COVID-19 pandemic, people and families in North Carolina should have the opportunity to safely enjoy North Carolina's museums, aquariums, and playgrounds; and

WHEREAS, limitations on the number of people who can occupy certain indoor facilities at a given time can help limit the potential for COVID-19 transmission; 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)(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. General Definitions.

In this Executive Order:

a. "Amusement Park" is an establishment where the primary purpose of Guests is to use any mechanical or structural device or attraction that carries or conveys or permits Guests to walk along, around or over a fixed or restricted route or course or within a defined area including entrances and exits thereto, for the purpose of giving those Guests amusement, pleasure, thrills, or excitement, other than waterslides as defined by N.C. Gen. Stat. § 95-111.3(h).

b. "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.

c. "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:

    i. Post the Emergency Maximum Occupancy in a noticeable place.

ii. 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.

iii. Conduct daily symptom screening of workers, using a standard interview questionnaire of symptoms before workers enter the workplace.

iv. Immediately isolate and remove sick workers.

v. 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).

NCDHHS has prepared sample signs and a sample screening checklist questionnaire, available at https://covid19.ncdhhs.gov/guidance, that may be used to meet some of the requirements above. Businesses or operations do not need to use the NCDHHS sample signs and questionnaires to meet the requirements of this Executive Order.

d. "Emergency Maximum Occupancy" is defined in Section 6.

e. "Face Covering" is defined in Subsection 3(1).

f. "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.

g. "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.

h. "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. "Playground" does not include any "amusement device" as defined under N.C. Gen. Stat. 95-111.3(a).

i. "Recommendations to Promote Social Distancing and Reduce Transmission" are defined in Subsection 2(B) below.

j. "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.

k. "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 Caroline Department of Revenue, and shops in North Carolina Department of Natural and Cultural Resources facilities.

Section 2. Activities Outside the Home.

1. **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.

2. **Follow the Recommendations to Promote Social Distancing and Reduce Transmission**. When people are outside their homes, they are strongly encouraged to take the following Recommendations to Promote Social Distancing and Reduce Transmission:

    a. Maintain at least six (6) feet social distancing from other individuals, with the exception of family or household members.

    b. Wear a cloth 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.

    c. Carry hand sanitizer with you when leaving home, and use it frequently.

    d. Wash hands using soap and water for at least twenty (20) seconds as frequently as possible.

    e. Regularly clean high-touch surfaces such as steering wheels, wallets, and phones.

    f. Avoid large gatherings.

    g. Stay at home if sick.

Section 3. Face Coverings.

1. **Face Covering Definitions**.

    a. "Face Covering" means a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears or is simply wrapped around the lower 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 recommendation from the Centers for Disease Control and Prevention, beginning on the date that this Executive Order becomes effective, face shields will no longer meet the requirements for Face Coverings.

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

    c. "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) and is not recommended for general public use or use in public settings, as it should be reserved for healthcare providers and other medical first responders in a health care setting. However, if worn, these respirators would meet both the Face Covering and Surgical Mask requirements of this Executive Order.

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

2. **Where Face Coverings Are Required**. People are required to wear Face Coverings in the following settings, whether they are inside or outside, unless an exception applies.

    a. In Retail Businesses. Retail Businesses must have all workers wear Face Coverings when they are or may be within six (6) feet of another person. In addition, Retail Businesses must have all Guests wear Face Coverings when they are inside the establishment and may be within (6) feet of another person, unless the Guest states that an exception applies.

    b. In Restaurants. Restaurants must have all workers wear Face Coverings when they are or may be within six (6) feet of another person. In addition, restaurants must have all Guests wear Face Coverings when not at their table, unless the Guest states that an exception applies.

    c. In Personal Care, Grooming, and Tattoo Businesses. Personal Care, Grooming, and Tattoo Businesses must have workers wear Face Coverings when they are or may be within six (6) feet of another person. In addition, the business must have all Guests wear Face Coverings when they are inside the establishment and may be within six (6) feet of another person, unless the Guest states that an exception applies. Guests may take off their Face Coverings if they are receiving a facial treatment, shave, or other services on a part of the head which the Face Covering covers or by which the Face Covering is secured.

    d. In Child Care Facilities, Day Camps, and Overnight Camps. Child care facilities, day camps, and overnight camps must have workers, all other adults, and children five (5) years or older on site wear Face Coverings when they are or may be within six (6) feet of another person.

    e. In State Government. State government agencies headed by members of the Governor's Cabinet and the Governor's Office must have their on-site workers wear Face Coverings when they are or may be within six (6) feet of another person. Public-facing operations of state government agencies under the jurisdiction of the undersigned must also follow the requirements for Retail Businesses established in this Executive Order.

        All other state and local government agencies are strongly encouraged to adopt similar policies that require Face Coverings.

    f. In Transportation. All workers and riders on public or private transportation regulated by the State of North Carolina, as well as all people in North Carolina airports, bus and train stations or stops, must wear Face Coverings when they are or may be within six (6) feet of another person. This provision does not apply to people traveling alone with household members or friends in their personal vehicles, but does apply to ride-shares, cabs, vans, and shuttles, even if the vehicles are privately owned.

        Notwithstanding the foregoing, no Guest will be removed from or denied entry to public transportation for failure to wear a Face Covering.

    g. In Certain High-Density Occupational Settings Where Social Distancing is Difficult. Social distancing is inherently difficult where multiple workers are together in manufacturing settings, at construction sites, and in migrant farm, other farm, and agricultural settings. Therefore, in businesses or operations within North American Industry Classification System (NAICS) sectors 311 to 339 (manufacturing), 236 to 238 (construction), and 111, 112, 1151, and 1152 (agriculture), all workers not requiring a respiratory protection program must wear Face Coverings when they are or may be within six (6) feet of another person. Notwithstanding the above, workers may remove their Face Covering if they become overheated, or to eat and drink while working.

h. In Meat or Poultry Processing Plants. All workers in any meat or poultry processing plant, packing plant, or slaughterhouse not requiring a respiratory protection program must wear Face Coverings when they are or may be within six (6) feet of another person, and those Face Coverings must be Surgical Masks, as long as Surgical Mask supplies are available.

i. 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.

j. 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).

k. In Fitness and Physical Activity Facilities. All workers in fitness and physical activity facilities within the scope of Subsection 6(8) of this Executive Order must wear Face Coverings when they are or may be within six (6) feet of another person, unless the worker is strenuously exercising. In addition, these businesses must have all Guests wear Face Coverings when they are inside the establishment and not strenuously exercising, unless the Guest states that an exception applies.

l. In Museums and Aquariums. Workers in museums and aquariums must wear Face Coverings when they are or may be within six (6) feet of another person. In addition, Guests must wear Face Coverings, unless the Guest states that an exception applies.

Where this Subsection 3(2) uses the phrase "unless the Guest states that an exception applies," the exception stated by the Guest must be one of the exceptions listed in this Section 3 of this Executive Order.

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.

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.

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.

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 good or services.

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 Guests.

   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 4. Exemptions from This Executive Order.

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, avoid exceeding Emergency Maximum Occupancy in the places where they meet, and avoid holding Mass Gatherings as defined in Section 7 of this Executive Order.

Section 5. Structure of The Remainder of This Executive Order.

The restrictions in this Executive Order are tailored for particular situations where COVID-19 can spread. As a result, the restrictions in the remainder of this Executive Order fall into three categories:

- Section 6 establishes restrictions for certain listed kinds of businesses and operations. The restrictions in this Section ensure that there is not overcrowding and spread people out in each space to reduce the risk from COVID-19.

- Section 7 establishes a Mass Gathering limit. This limit controls the risk of COVID-19 spread in events or convenings that are not covered by the specific restrictions in Section 6.

- Section 8 keeps closed certain kinds of businesses and operations because those types of businesses, by their very nature, present greater risks of the spread of COVID-19. These greater risks are due to factors such as people traditionally interacting in that space in a way that would spread COVID-19, shared equipment that is repeatedly touched by Guests, or a business model that involves Guests remaining in a confined indoor space over a sustained period.

Section 6. Restrictions on Certain Businesses and Operations.

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

1. **Prohibition**. To control the spread of COVID-19 and protect lives during the State of Emergency, Section 3 and this Section list 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 Section 3 or this Section are prohibited from operating unless they follow any applicable restrictions stated in Section 3 and this Section.

2. **Retail Businesses**.

    a. Requirements for Retail Businesses. While this Executive Order is in effect, all open Retail Businesses must do all of the following.

        i. Limit Guests inside the store to Emergency Maximum Occupancy. Under this Executive Order, the Emergency Maximum Occupancy for a Retail Business is the lowest number produced by applying the following two tests:

            1. Limit the number of Guests in the store to fifty percent (50%) of stated fire capacity (or, for spaces without a stated fire capacity, no more than twelve (12) 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).

            2. Limit the number of Guests in the store so that everyone can stay six (6) feet apart.

        ii. Mark six (6) feet of spacing in lines at point of sale and in other high-traffic areas for Guests, such as at deli counters and near high-demand products.

        iii. Follow the Core Signage, Screening, and Sanitation Requirements as defined in this Executive Order.

3. **Restaurants**.

    a. Restaurants May Open for On-Premises Service. During the effective period of this Executive Order, restaurants may allow on-premises consumption of food and beverages. Restaurants must meet the sanitation requirements of this Section even if they are open only for take-out or delivery service.

    b. Requirements. While this Executive Order is in effect, all open restaurants must do all of the following:

        i. Limit Guests in indoor and outdoor seating areas to Emergency Maximum Occupancy. Under this Executive Order, the Emergency Maximum Occupancy for a restaurant is the lowest number produced by applying the following three tests:

            1. Limit the number of Guests in the restaurant to fifty percent (50%) of stated fire capacity (or, for spaces without a stated fire capacity, no more than twelve (12) 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).

2. Limit the number of Guests in the space so that groups can stay six (6) feet apart.

3. Arrange the restaurant so that Guests sitting at a table are not within six (6) feet of any Guests sitting at another table. Moreover, each group of Guests sitting at a counter should be separated from other groups by six (6) feet.

ii. Limit Guests at tables so that no more than ten (10) people shall be seated together at the same table. However, more than ten (10) people may sit together at the same table if they are members of the same household.

iii. Follow the Core Signage, Screening, and Sanitation Requirements as defined in this Executive Order, along with the following additional requirements:

iv. Increase disinfection during peak times or high Guest density times, and disinfect all shared objects (e.g., dining tables, booths, counters, payment terminals, tables, countertops/bars, receipt trays, condiment holders, and reusable menus) between each use.

v. 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.

vi. Mark six (6) feet of spacing in lines at high-traffic areas for Guests, such as a cash register or place where Guests wait to be seated at their table.

c. 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 servers and wait staff to stay six (6) feet away from Guests.

d. Miscellaneous. A restaurant that operates consistent with the terms of this Subsection of this Executive Order shall continue to be considered an "Essential Business" for the purpose of N.C. Sess. L. 2020-03, Sec. 4.14(a) to the extent that COVID-19-related claims are made against the restaurant.

4. **Personal Care, Grooming, and Tattoo Businesses**.

a. Personal Care, Grooming, and Tattoo Businesses May Open. During the effective period of this Executive Order, Personal Care, Grooming, and Tattoo Businesses may operate, but must be in compliance with this Section.

b. Requirements. While this Executive Order is in effect, all open Personal Care, Grooming, and Tattoo Businesses must do all of the following:

i. Limit Guests inside the store to Emergency Maximum Occupancy. Under this Executive Order, the Emergency Maximum Occupancy for a Personal Care, Grooming, and Tattoo Business is the lowest number produced by applying the following two tests:

1. Limit the number of Guests in the store to fifty percent (50%) of stated fire capacity (or, for spaces without a stated fire capacity, no more than twelve (12) 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).

2. Limit the number of Guests in the store so that Guests can stay six (6) feet apart.

ii. Arrange seating so that groups of Guests are separated from one another by six (6) feet.

iii. Follow the Core Signage, Screening, and Sanitation Requirements as defined in this Executive Order, except for the requirement to have signage remind people about staying six (6) feet apart.

iv. Ensure that all equipment that comes into direct personal contact with Guests and all furniture in service areas (such as chairs, capes, and the shampooing area in a barber shop or salon) is completely cleaned and disinfected between each Guest.

v. Mark six (6) feet of spacing in lines at point of sale and in other high-traffic areas for Guests, such as at cash registers and waiting areas.

5. **Pools**.

a. Indoor and Outdoor Pools May Open. During the effective period of this Executive Order, indoor or outdoor pool facilities (whether stand-alone or part of other facilities) may operate, but must be in compliance with this Subsection.

b. Requirements. While this Executive Order is in effect, all open pool facilities must do all of the following:

i. Limit the number of Guests in the pool to no more than 50% of maximum occupancy as determined by fire code (or, when fire code number is not known, thirty-three (33) Guests per one thousand (1000) square feet in deck areas, wading pools and splash pads), and a maximum occupancy in the water of ten (10) Guests per one thousand (1000) square feet. This Guest capacity is the Emergency Maximum Occupancy for the pool facility.

ii. Follow the Core Signage, Screening, and Sanitation Requirements as defined in this Executive Order.

c. Establishments that are not Amusement Parks and offer waterslides over fifteen (15) feet in height must abide, for each waterslide, by the occupancy restrictions for pools stated in this Section.

d. This Subsection applies only to shared pools in commercial settings or at residential complexes. It does not apply to family pools at people's homes.

6. **Child Care Facilities**.

a. Child Care Facilities May Open and May Serve All Children. Child care facilities may open or reopen, and they may serve all children in North Carolina. All references to "covered children" in Executive Order Nos. 130 and 138 shall refer to all children.

b. Requirements. Child care facilities that are open or reopened consistent with the Executive Order must abide by the following requirements:

i. Follow all applicable NCDHHS guidelines.

ii. Follow the Core Signage, Screening, and Sanitation Requirements as defined in this Executive Order.

iii. Conduct a daily health screening on all individuals who are entering the building.

iv. Immediately isolate sick workers and children from the rest of the facility and send them home.

v. Have a plan to work with local health departments to identify close contacts of confirmed cases in the child care setting.

vi. Before reopening, child care facilities shall submit to NCDHHS the Emergency Child Care Provider Application. NCDHHS must approve the Emergency Child Care Provider Application before the child care facility can reopen.

c. Relationship to Other Executive Orders. Subsections 6(6)(a) and 6(6)(b)(i) above completely replace Subsections (C) and (D) of Section 2 of Executive Order No. 130. Subsections 2(A)-2(B) and 2(E)-(H) of Executive Order No. 130 and Section 3 of Executive Order No. 139 shall continue in effect as specified in Executive Order No. 152 and any subsequent executive orders.

7. **Day Camps and Overnight Camps**. To the extent, if any, that day camps and overnight camps continue to operate during the effective period of this Executive Order, the requirements of Executive Order No. 141 (as amended) which are applicable to Day Camps and Overnight Camps in that Order shall continue to apply to those camps.

8. **Fitness and Physical Activity Facilities**.

a. May Open. The following types of fitness and physical activity establishments are covered by this Subsection and may be open or reopen, subject to the requirements herein:

- Exercise facilities (e.g., yoga studios, dance studios, ballrooms for dancing, martial arts facilities, gymnastics, indoor trampoline and rock climbing facilities)
- Gyms
- Fitness or physical activity facilities, 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 Sections 7 and 9 of this Executive Order)
- Facilities for sports teams or leagues for any other fitness activity or physical activity with a non-incidental fitness benefit (with spectators, if any, limited as stated in Sections 7 and 9 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, speedways, and raceways (with spectators, if any, limited as stated in Sections 7 and 9 of this Executive Order)
- Paintball, laser tag, and similar fields and arenas

Notwithstanding the foregoing, any of the preceding establishments must remain closed if located within an Amusement Park.

b. Requirements for Fitness and Physical Activity Facilities. While this Executive Order is in effect, these facilities must do all of the following:

i. Limit any Guests in indoor areas to 30% Emergency Maximum Occupancy. Under this Executive Order, 30% Emergency Maximum Occupancy is the lowest number produced by applying the following two tests:

1. 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).

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

ii. In outdoor areas, limit Guests to the lowest number produced by applying the following three tests:

1. Limit each group of Guests to the outdoor Mass Gathering limit of fifty (50) people.

2. Limit the number of Guests in the outdoor area to twelve (12) Guests for every one thousand (1000) square feet.

3. Limit the number of Guests in any given outdoor area so that every Guest can stay six (6) feet apart.

iii. Require Guests and workers in both indoor and outdoor areas to wear Face Coverings over the mouth and nose except when they are strenuously exercising, pursuant to Subsection 3(2)(k) of this Executive Order.

iv. 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.

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

vi. 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).

vii. 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.

viii. 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.

ix. Increase disinfection during peak times or high-population-density times.

x. Mark six (6) feet of spacing in lines at point of sale and in other high-traffic areas for Guests.

xi. Follow the Core Signage, Screening, and Sanitation Requirements as defined in this Executive Order.

c. Meetings at Fitness and Physical Activity Facilities. Meeting halls, conference rooms, amphitheaters, multipurpose rooms, and other gathering spaces within fitness or physical activity facilities are limited to the Mass Gathering limits of twenty-five (25) people indoors or fifty (50) people outdoors.

d. Sporting Events with Spectators in Fitness and Physical Activity Facilities. At a sporting event with spectators that takes place in a fitness or physical activity facility:
   i. The Mass Gathering Limit described in Section 7 of this Executive Order applies in addition to the restrictions stated in this Section 6.8; and
   ii. If the facility meets the requirements of Section 9.2 of this Executive Order, spectators are counted separately from other Guests for purposes of calculating the Mass Gathering limit.

e. Uses of Gyms That Previously Were Excepted. The indoor areas of gyms and other fitness facilities could previously be utilized, pursuant to NCDHHS guidance and previous executive orders, under exceptions for collegiate or professional athletes and for people prescribed or directed to use the indoor areas of gyms or fitness facilities by a medical professional. These previous exceptions are no longer in place under this Executive Order, and these uses must take place under the capacity and other restrictions stated above.

9. **Museums and Aquariums**.

   a. Museums and aquariums may open.

   b. All operators of open museums or aquariums must meet the following requirements:

      i. Limit the number of Guests in the museum or aquarium to fifty percent (50%) of stated fire capacity (or, for spaces without a stated fire capacity, no more than twelve (12) 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) and ensure Guests are able to social distance and remain 6 feet away from groups other than those in their households.

      ii. Limit Guests in each room within a museum or aquarium such that they do not exceed the Mass Gathering limit. Restaurants located within museums and aquariums are subject to the Emergency Maximum Occupancy and other requirements on restaurants in Subsection 6(3) of this Executive Order.

      iii. 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.

      iv. Conduct daily symptom screening of workers, using a standard interview questionnaire of symptoms, before workers enter the workplace.

      v. Immediately isolate and remove sick workers.

      vi. 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).

Section 7. Mass Gatherings.

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

1. **Prohibition on Mass Gatherings**.

   a. **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, such as an auditorium, stadium, arena, or meeting hall. This includes parades, fairs, and festivals. In publicly accessible indoor facilities, the Mass Gathering limit applies per room of the facility.

The outdoor Mass Gathering limit of fifty (50) people applies to groups of people that may gather together in an outdoor setting like a park, and on a beach or trail.

b. **Exceptions from Prohibition on Mass Gatherings**. Notwithstanding Subsection 7(1)(a) above:

i. The prohibition on Mass Gatherings does not apply to any of the restricted businesses and operations identified in Section 6 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 also does not apply to educational institutions or government operations.

ii. 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.

2. **Parks, Trails, and Beaches**.

a. Application of Mass Gathering Limit to These Spaces. Each group of people within an outdoor park, trail, or beach must be limited so that the group, counted on its own, does not exceed the Mass Gathering limit.

b. Requirements for Park Operators. All operators of open public or private parks must meet the following requirements:

i. 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.

ii. Conduct daily symptom screening of workers, using a standard interview questionnaire of symptoms, before workers enter the workplace.

iii. Immediately isolate and remove sick workers.

iv. 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).

c. Playgrounds. Playgrounds may resume operation. Indoor playgrounds must follow the requirements of this Executive Order for fitness and physical activity facilities.

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.

4. **Receptions, Events, or Parties.** Receptions, events, or parties, like other events or convenings which are not excepted from the prohibition on Mass Gatherings, are limited to the Mass Gathering limit of twenty-five (25) people indoors or fifty (50) people outdoors.

Section 8. Orders of Closure.

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

1. **Entertainment Facilities**.

   a. In addition to the restrictions on Mass Gatherings identified in Section 7 of this Executive Order, the following entertainment facilities that operate within a confined indoor or outdoor space and do not offer a retail or dining component are ordered to close. Any retail or dining component within the following entertainment facilities may operate solely for retail or dining, but those components must comply with the restrictions set out in Section 6 of this Executive Order.

   b. Entertainment facilities restricted by this Subsection are places where the purpose is to engage in primarily passive forms of entertainment and any fitness benefit is largely incidental. Entertainment facilities restricted by this Subsection include, but are not limited to, the following types of businesses:

      - Bingo parlors, including bingo sites operated by charitable organizations
      - Facilities where the purpose is to engage in games of cards, such as bridge
      - Movie theaters (except for drive-in theaters, and except for movies shown in a park or other open outdoor space which complies with the Mass Gathering restrictions)
      - Bars or lounges (such as cigar bars and hookah lounges) in which tobacco or related products are consumed on premises
      - Gaming and business establishments which allow gaming activities (e.g., video poker, gaming, sweepstakes, video games, arcade games, pinball machines or other computer, electronic or mechanical devices played for amusement)
      - Pool halls, billiard parlors, and billiard rooms
      - Amusement Parks (as defined in Section 1 of this Executive Order)
      - Tour buses, tour trains, or other scenic and sightseeing transportation that is conducted not to go from one place to another place, but for amusement
      - Bars (as defined in Section 1 of this Executive Order)
      - Night clubs, dance halls, or music halls where Guests are not seated

      Any fitness or physical activity facility, restaurant, pool, or other facility that is opened under Section 6 above is not an entertainment facility closed under this Section 8 of this Executive Order.

      Entertainment areas within establishments that are open must remain closed. For example, a museum that is open under Subsection 6(9) above may not open an on-site movie theater or amusement devices.

2. **Limitations of this Executive Order**. This Executive Order solely directs that Bars are not to serve alcoholic beverages for onsite consumption, and 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. **ABC Commission**. If the Alcoholic Beverage Control Commission (the "ABC Commission") identifies other state laws, regulations, and policies that may affect Bars, restaurants, and other dining establishments identified in this Executive Order, it is directed to inform the Office of the Governor in writing. Upon written authorization from the Office of the Governor, the ABC Commission may interpret flexibly, modify, or waive those state laws, regulations and policies, as appropriate, and to the maximum extent permitted under applicable state and federal law, to effectuate the purposes of this Executive Order.

Section 9. Entertainment and Sporting Events in Large Venues.

1. **Intent**. The intent of this Section is to permit venues to hold sporting or entertainment events if the venue is of sufficient size to allow people to flow in and out of the venue in a way that would avoid creating a risk of spreading COVID-19.

2. **Exception**. Therefore, as an exception to the closure of entertainment facilities in Section 8 above, an entertainment or sporting venue with at least two entrances and exits and a stated fire capacity of at least five hundred (500) may hold a performance by entertainers, performers, or athletes. The venue must control the flow of people through lobbies and other common spaces to allow social distancing and avoid the spread of COVID-19.

3. **Treatment under Mass Gathering Limit**. In this situation, and only in this situation: (1) entertainers, performers, and athletes, along with coaches, training, support, and broadcast staff, shall not count toward the Mass Gathering limit and (2) employees and other workers at facilities where entertainment and sporting events occur also shall not count toward the Mass Gathering limit.

4. **Restrictions on Spectators**. Spectators or other attendees at any sporting or entertainment events allowed under this Section must be no more than the Mass Gathering limit of twenty-five (25) people indoors or more than fifty (50) people outdoors. Moreover, any entertainers or athletes must stay six (6) feet away from spectators.

5. **Requirements for Large Venue Operators**. Any venue operator subject to this Section allowing an event permitted by this Section shall:

    a. Follow the Core Signage, Screening, and Sanitation Requirements as defined in this Executive Order.

    b. 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.

    c. Immediately isolate and remove sick workers.

    d. Any food service at sporting or entertainment events must comply with the restrictions set out in Subsection 6(3) of this Executive Order. Bars at sporting or entertainment events must remain closed.

Section 10. Miscellaneous Provisions.

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.

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.

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 10(3)(b) and 10(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 10(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 10(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 Subsection 6(2)(a)(i) of this Executive Order. 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 Subsection 6(2)(a)(i) of this Executive Order.

4. **Previous Executive Orders**. This Executive Order continues certain restrictions from Executive Order No. 141, as amended. Section 6(G) of Executive Order No. 141 is extended to continue throughout the effective period of this Executive Order, but in all other respects, this Executive Order amends, restates, and replaces Executive Order No. 141.

Section 11. 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 2, 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 12. 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 13. 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 14. 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 15. Enforcement.

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 Section 3 shall be limited as stated in that Section. 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.

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.

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 16. Effective Date.

This Executive Order is effective at 5:00 pm on September 4, 2020. This Executive Order shall remain in effect through 5:00 pm on October 2, 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. This Executive Order replaces the original version of Executive Order No. 163, which was signed on September 1, 2020 and was scheduled to go into effect on September 4, 2020.

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 4th day of September in the year of our Lord two thousand and twenty.

Roy Cooper
Governor

ATTEST:

Elaine F. Marshall
Secretary of State