



**FIFTH AMENDMENT TO THE DECLARATION OF A
STATE OF EMERGENCY IN DURHAM COUNTY, NC
TO COORDINATE PROTECTIVE ACTIONS
TO PREVENT THE SPREAD OF COVID-19
(STAY AT HOME ORDER)**

WHEREAS, the novel coronavirus disease-2019 (COVID-19) is a disease spreading across the globe causing flu-like symptoms, but with a significantly higher rate of death, particularly among those who are elderly or medically vulnerable; and

WHEREAS, On 30 January 2020, the World Health Organization (WHO) determined the outbreak constitutes a Public Health Emergency of International Concern (PHEIC); and

WHEREAS, on January 31, 2020, Health and Human Services Secretary, Alex M. Azar, II, declared COVID-19 to be a public health emergency in the United States; and

WHEREAS, on March 10, 2020, in order to address and mitigate the threat of COVID-19 to vulnerable populations and to slow the spread of COVID-19 in North Carolina, Governor Roy Cooper declared a state of emergency in North Carolina; and

WHEREAS, on March 13, 2020, President Trump declared the COVID-19 pandemic to be a national emergency; and

WHEREAS, on March 14, 2020, in order to address and mitigate the threat of COVID-19 to vulnerable populations and to slow the spread of COVID-19 in North Carolina, Governor Roy Cooper issued Executive Order 117, among the measures he directed were limiting mass gatherings to no more than 100 persons, temporarily closing public schools, and urging compliance with CDC recommendations on social distancing; and

WHEREAS, from March 17-April 9, 2020, in order to address and mitigate the threat of COVID-19 to vulnerable populations and to slow the spread of COVID-19 in North Carolina, Governor Roy Cooper issued Executive Orders 118-131, imposing additional restrictions on commerce, mass gatherings, restricting the operations of long-term care facilities, and also making recommendations for the use of personal protective equipment by the general population; and

WHEREAS, in response to the COVID-19 pandemic, the undersigned issued a Declaration of State of Emergency in Durham County (“Declaration”) on March 14, 2020, making recommendations as to conduct designed to protect the public health; and

WHEREAS, in response to the COVID-19 pandemic, the undersigned subsequently issued an Amendment to that Declaration, a Stay at Home Order, on March 28, 2020, imposing additional restrictions beyond those imposed by the Governor in a further effort to slow the spread of the COVID-19 virus, which was extended into the City limits of Durham; and

WHEREAS on April 3, 2020, due to additional cases of Covid-19 being reported, the undersigned issued a Second Amendment to that Declaration imposing additional restrictions on commerce and personal activities in a further effort to slow the spread of the COVID-19 virus which was extended into the City limits of Durham; and

WHEREAS on April 17, 2020, due to additional cases of Covid-19 being reported, the undersigned issued a Third Amendment to that Declaration imposing additional



restrictions on commerce and personal activities in a further effort to slow the spread of the COVID-19 virus which was extended into the City limits of Durham; and

WHEREAS on April 24, 2020, due to additional cases of Covid-19 being reported, but the rate of infection having slowed down, the undersigned issued a Fourth Amendment to that Declaration imposing some additional restrictions on commerce and personal activities in a further effort to slow the spread of the COVID-19 virus, but also permitting some additional commercial activities to occur, which Order was extended into the City limits of Durham; and

WHEREAS, since execution of the Fourth Amendment to the Declaration, while additional residents of Durham County have been tested for the COVID-19 virus, the rate of infection has not increased; and

WHEREAS, on May 8, 2020, the Governor's Executive Order 138 (EO 138) became effective, setting new standards, and relaxing some of the restrictions in an effort to permit some greater personal activity and a partial resumption of commerce; and

WHEREAS, in Section 8 of Executive Order 138 the Governor recognized that local authorities, particularly in urban areas, may need to enact greater restrictions than those contained in Executive Order 138; and

WHEREAS, in areas battling COVID-19, there is a severe shortage of medical supplies for health care workers and equipment to help the public avoid transmitting the disease; and

WHEREAS, the undersigned has conferred with Durham County's Public Health Director and operators of Duke Health, a major health care provider within Durham County, and confirmed that there is still a critical need to slow the spread of COVID-19 within Durham in order to preserve precious supplies to treat those with COVID-19 and other serious illnesses and injuries; and

WHEREAS, many individuals who contract the virus display no symptoms or have mild symptoms which means they may not be aware they carry the virus. People without symptoms can transmit the disease and because evidence shows the disease is easily spread, mass gatherings can result in further transmissions of the virus; and

WHEREAS, it is essential to slow viral transmission as much as possible to protect the most vulnerable and to prevent the health care system from being overwhelmed; and

WHEREAS, the undersigned has determined that the additional restrictions and prohibitions identified below which exceed the standards set forth in Governor Cooper's Executive Order 138 are necessary to slow the rate of the spread of COVID-19, and preserve the health and lives of our residents, and are the least restrictive based upon the currently available information; and,

WHEREAS, The City and County of Durham have convened a Recovery and Renewal Task Force to provide recommendations on best practices to permit a reduction in restrictions, while still minimizing the potential for transmission of Covid-19, but that Task Force has not yet had a chance to issue any recommendations; and

WHEREAS, based on consultation with Public Health and community stakeholders it appears at this time that some additional commercial activities can safely be permitted to resume, while still protecting public health.



NOW THEREFORE BE IT FURTHER ORDAINED THAT, while the basis for the Original Declaration of State of Emergency still exists, the restrictions and prohibitions enacted in the Original Declaration of State of Emergency and the previous Second, Third, and Fourth Amendments to the Declaration of State of Emergency in Durham County, are rescinded and replaced in their entirety with the provisions set forth below:

Section 1. The emergency area for the original Declaration of State of Emergency, and its subsequent Amendments, to include this one, are the geographic limits of Durham County, and at the request of the Mayor, within the corporate limits of the City of Durham as well. It does not apply within the corporate limits of other municipalities in Durham County unless those municipalities either request or consent to have this Order apply within their jurisdiction.

Section 2. Except as otherwise noted in this Order, the definitions, standards, and restrictions set forth in EO 138 are adopted and incorporated into this Order.

- A. Allowable Activities.** This Order specifically adopts the order in Section 2 of EO 138 that individuals should stay at home unless they are participating in the Allowable Activities set forth in EO 138, or otherwise permitted by this Order.
- B. Mass Gatherings** This Order specifically includes the revised definition of “mass gatherings” in Section 6A of EO 138, raising the number of persons who may gather to no more than ten (10), as well as the exceptions and additional provisions of Sections 6B-6C and 6E-6F. For Funerals, the maximum number who may attend in person is limited to 25.
- C. Social Distancing and Sanitation Requirements.** Any person who needs to leave their place of residence, and all businesses or other entities and establishments permitted to operate, or gatherings permitted to occur, shall at all times reasonably comply with the following practices, and require compliance by their employees, patrons, and visitors. For purposes of this Order, social distancing and sanitation requirements shall include, in addition to those specified in EO 138:
1. Employers shall conduct basic health screenings at the beginning of every employee's shift, which shall include:
 - a. Discussion about any shortness of breath, coughing, or sore throat;
 - b. Employers are strongly encouraged, to the extent they are able, to also take the temperature of each employee.

If an employee is exhibiting any of the above listed symptoms or has a temperature above 100.4 degrees, the employer should provide the employee with a face mask (if the employee does not already have one), and require them



to leave the workplace. Any employee with COVID-19 symptoms should be encouraged to call their primary care provider or the local health department.

2. Maintaining at least six-foot social distancing from other individuals. For businesses, establishments and other entities this includes controlling entry to their premises and regulating patron conduct and spacing within the premises and at point of sale. Consistent with this, contact sports or other physical activities where social distancing cannot be maintained at all times are prohibited;
3. Washing hands with soap and water (especially if hands are soiled) for at least twenty seconds as frequently as possible or using hand sanitizer. For businesses this includes providing a means for patrons and staff to sanitize themselves and prevent cross-contamination;
4. Covering coughs or sneezes (into the sleeve, elbow or tissue, not hands);
5. Regularly cleaning high-touch surfaces. For businesses, establishments and other entities this includes a process and routine for sanitizing frequently handled surfaces such as door handles and push plates or countertops which is scrupulously followed;
6. Not permitting the sharing of tools, instruments, or other devices, in work spaces, recreational activities, at mass gatherings, and those activities allowed as an exemption to the definition of a “mass gathering”, unless they have been cleaned in between users. For businesses establishments and other entities this includes a process and routine for sanitizing frequently handled surfaces such as carts, gas pump handles, and point of purchase devices which is scrupulously followed;
7. Businesses providing services in a residential setting shall have their employees wear a mask covering the mouth and nose;
8. Businesses must not provide complimentary food or drink on their premises. As a limited exception, businesses may provide their employees items such as box lunches and prepackaged snacks, along with wrapped utensils, so long as the items are displayed in a manner to minimize handling and where strict observance of sanitation and social distancing is still maintained; and
9. Not shaking hands.
10. Wearing of Face Coverings

All persons in the City and County of Durham are required to wear a clean face covering any time they are, or will be, in contact with other people who are not household members in public or private spaces where it is not possible to maintain social distance. These spaces include grocery stores, pharmacies, business locations and public transit. While wearing the face covering, it is essential to still maintain social distance insofar as possible since social distancing is the best defense against the spread of the Coronavirus.

While face coverings are required, no one will be removed from or denied entry to public transit for failure to wear a face covering.

A face covering is a material that covers the nose and mouth. It can be secured to the head with ties or straps or simply wrapped around the lower face.



It can be made of a variety of materials, such as cotton, silk, or linen. A cloth face covering may be factory-made or sewn by hand or can be improvised from household items such as scarfs, T-shirts, sweatshirts, or towels.

Acceptable, reusable face covering options for the general public include: bandanas, neck gaiters, homemade face coverings, scarves, or tightly woven fabric such as cotton t-shirts and some types of towels.

It is not required to wear face coverings during individual exercise outdoors, or while walking or exercising with other people from the same household, as long as social distance from others is maintained.

Section 3. Limitations on Business Operations. In addition to the Social Distancing and Sanitation Requirements specified in EO 138 and Section 2.C above, the following additional requirements are established for:

A. **Childcare facilities.** To the extent possible, childcare facilities must operate under the following conditions:

1. Childcare must be carried out in stable groups ("stable" means that the same persons of children and staff are in the same group each day);
2. Children shall not change from one group to another;
3. If more than one group of children is cared for at one facility, each group shall be in a separate room. Groups shall not mix with each other; and
4. Childcare providers shall remain solely with one group of children.

B. **Real estate services.** Both sales and rental real estate services, to include sales by Builders, present a high traffic use of common surfaces which present a risk of transmission. All realtors and their clients should use safety precautions when entering both vacant and occupied properties as outlined below.

1. Safety precautions applicable to all activities under this section:

- a. Anyone entering a home pursuant to this section must wear a mask and gloves and must not touch surfaces inside the home to the greatest extent possible. Lights must be turned on and interior doors opened prior to entry. Hand sanitizer or sanitized wipes must be provided to anyone entering a home before and after entering a home; and
- b. Anyone entering a home pursuant to this section must assert that to the best of their knowledge, they are not currently ill with a cold or flu; do not have a fever, persistent cough, shortness of breath, or exhibit other COVID-19 symptoms; have not been in contact with



a person with COVID-19; and will adhere to and follow all precautions required for entering the property at all times.

2. Activities prior to an offer to purchase or rent being accepted:

a. Open houses of any homes for sale are prohibited. In-person showings of homes for sale or rent are permitted under the following conditions:

1) The buyer's agent cannot enter the home with the prospective buyer(s); however, the agent can talk to the buyer during the showing from outside the home using cell phones and a video service;

2) Only one person can enter a home at a time for a showing. However, two people can enter at the same time if they have been socially distancing together; and

3) Showings of all homes must be separated by at least one hour after the previous prospective buyer/tenant has left. If the home is occupied, the residents should leave the property one hour before a scheduled showing and return at least an hour after the showing is completed.

4) For non-owner-occupied rental properties, showings are limited to no more than one per day, unless the tenant has expressly agreed to permit more frequent showings in a writing executed on or after May 14, 2020.

b. Listing agents may enter vacant or occupied properties to take photographs and videos to facilitate virtual tours. Buyers' agents may enter vacant properties to take photographs and/or videos. These services may be performed by a professional photography service so long as the safety precautions of this section are met.

3. Post-sale activities (These activities are restricted to the following activities connected with closing sales.)

a. Post-offer inspections;

b. Onsite preview by prospective buyer where property is under contract sight unseen;

c. Appraisal;

d. Surveys;

e. Final walk throughs; and,

f. Title services.



Section 4. Business or other entities and establishments conducting activities in violation of this Order shall be subject to immediate closure and the responsible personnel subject to criminal charges.

Section 5. I hereby further encourage all residents, visitors, businesses, and establishments within the emergency area of Durham County to follow any and all directives and recommendations set forth by the United States Federal Government and its designated agencies such as the Center for Disease Control, the North Carolina Governor's Office, the North Carolina Department of Health and Human Services, the Durham County Department of Public Health, and any other government agency having proper jurisdiction to address this emergency within Durham County.

Section 6. I hereby order Durham County emergency management and emergency response personnel, and all other Durham employees subject to our control to cooperate in the enforcement and implementation of the provisions of this Order, all applicable local ordinances, state, and federal laws, and the Durham County Emergency Operations Plan. I further request the cooperation and support of the Sheriff's Office and Durham Police Department in enforcing the provisions of this Fifth Amendment, violations of which are a criminal offense.

Section 7. In further response to this ongoing State of Emergency, and pursuant to Chapter 10 of the Durham County Code and Chapter 166A of the N.C. General Statutes, I hereby authorize the Durham City-County Planning Director to invoke the authority set forth in Section 1.11 of the Durham Unified Development Ordinance (UDO) to waive, suspend and/or cease enforcement of the UDO, specifically with respect to Section 3.7.2 of the UDO, for facilities located within the County that are directly related to the County's COVID-19 response. This grant of authority will allow rapid deployment of any facility additions and/or expansions that will aid the County's response to the COVID-19 virus.

Section 8. A copy of this Fifth Amendment to the Declaration of State of Emergency in the County of Durham shall be provided to the County Clerk and posted at the County Courthouse. Reports of the substance of its prohibitions and restrictions shall be sent immediately to the mass communications media serving Durham County. As soon as practicable, the full text of this Amendment shall be distributed to the mass communications media serving Durham County.

Section 9. All provisions of this Fifth Amendment shall take effect on Friday, May 15, 2020, at 5:00 p.m. This Fifth Amendment and the Original Declaration shall remain in effect until rescinded or modified by the undersigned. These Orders will be regularly reviewed and evaluated for their necessity and efficacy, and may be revised, amended, and/or extended based upon the impact of the COVID-19 pandemic, existing evidence, and recommendations by federal, state and local public health authorities, or the Response and Recovery Task Force.

This Fifth Amendment signed at this date and time: May 15, 2020, at _____ o'clock.



(include AM or PM)

Wendy Jacobs, Chair
Durham County Board of Commissioners

Note: Noon is 12:00 PM. Midnight is 12:00 AM