

NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**
Office of General Counsel

ROY COOPER • Governor
MANDY COHEN, MD, MPH • Secretary

MARCH 17, 2020

ORDER OF ABATEMENT OF IMMINENT HAZARD

WHEREAS, the Governor issued Executive Order No. 116 on March 10, 2020 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 to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

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

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq.* and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 outbreak in the United States constitutes a national emergency, retroactive to March 1, 2020; and

WHEREAS, on March 14, 2020, the Governor issued Executive Order No. 117 which prohibited mass gatherings of more than one hundred (100) people in the State of North Carolina, closed K-12 public schools and urged all persons to maintain social distancing (approximately 6 feet away from other people) whenever possible to limit the spread of COVID-19; and

WHEREAS, on March 15, 2020, the Centers for Disease Control ("CDC") updated their guidance for large events and mass gatherings, and recommended that for the next 8 weeks, organizers (whether groups or individuals) cancel or postpone in-person events that consist of fifty (50) people or more throughout the United States; and

WHEREAS, on March 16, 2020, the White House issued new guidelines called The President's Coronavirus Guidelines for America -- 15 Days to Slow the Spread of Coronavirus (COVID-19); and

WHEREAS, the Governor, pursuant to Section 401 of the Stafford Act is requesting a

major disaster declaration from the United States Federal Government; and

WHEREAS, the North Carolina Department of Health and Human Services (“NCDHHS”) confirmed that the number of cases of COVID-19 in North Carolina continues to rise; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the Governor 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, the Governor has established the Novel Coronavirus Task Force on COVID-19 to work with state, local, and federal partners in responding to challenges posed by COVID-19; and

WHEREAS, NCDHHS has organized a Public Health Incident Management Team to manage the public health impacts of COVID-19 in this state; and

WHEREAS, under N.C. Gen. Stat. § 130A-2(3), an “imminent hazard” is defined as a situation that is likely to cause an immediate threat to human life, an immediate threat of serious physical injury, an immediate threat of serious adverse health effects, or a serious risk of irreparable damage to the environment if no immediate action is taken; and

WHEREAS, under N.C. Gen. Stat. § 130A-20(a), if the Secretary of Health and Human Service determines that an imminent hazard exists, the Secretary may order the owner, lessee, operator, or other person in control of the property to abate the imminent hazard; and

WHEREAS, further action is necessary to protect the health and safety of the residents of North Carolina, slow the spread of the COVID-19 outbreak, protect our most vulnerable citizens, and avoid strain on our health care system; and

NOW, THEREFORE, by the authority vested in me pursuant to N.C. Gen. Stat. § 130A-20(a) as Secretary of the NC Department of Health and Human Services, I am declaring that the use of seating areas of restaurants and bars constitute an imminent hazard for the spread of COVID-19 under N.C. Gen. Stat. § 130A-2(3). For that reason, **IT IS ORDERED**:

Section 1. Imminent Hazard – Restaurants

(a) All owners, lessees, operators, or other persons in control of a restaurant shall close all restaurant seating areas immediately. Restaurants are restricted to carry-out, drive-through, and delivery to ensure food is available while enabling an environment where staff and patrons maintain social distancing (at least 6 feet from other people) whenever possible.

(b) For the purposes of this Order, restaurants are defined as permitted food establishments, under N.C. Gen. Stat. § 130A-248, and other establishments that both prepare and serve food, including but not limited to, restaurants, cafeterias, food halls, dining halls, food kiosks at airports and shopping centers, or educational institutions, (“food courts”), as well as private or members-only clubs where food and beverages are permitted to be consumed on premises.

Section 2. Imminent Hazard – Bars

(a) All owners, lessees, operators, or other persons in control of a bar shall close their bars immediately.

(b) For purposes of this Order, bars are defined as establishments that are not restaurants and that have a permit to sell alcoholic beverages for onsite consumption, under N.C. Gen. Stat. § 18B-1001.

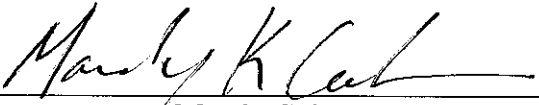
Section 3. Enforcement

Pursuant to N.C. Gen. Stat. §§ 130A-18 and 130A-25, failure to comply with this imminent hazard abatement order may result in injunctive relief or prosecution for a misdemeanor offense.

Section 4. Effective Date

Sections 1 and 2 of this Abatement Order are effective as of 5:00 pm, Tuesday, March 17, 2020, and until March 31, 2020, or until this Order is rescinded or replaced.

I have hereunto signed my name, this 17th day of March in the year of our Lord two thousand and twenty.



Mandy Cohen, MD, MPH
Secretary, NCDHHS