



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor

MANDY COHEN, MD, MPH • Secretary

MAY 4, 2020

ORDER OF ABATEMENT OF IMMINENT HAZARD

WHEREAS, on March 10, 2020, the Governor 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 to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); 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 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 pandemic in the United States constitutes a national emergency, retroactive to March 1, 2020; and

WHEREAS, on March 25, 2020, the President of the United States, pursuant to Section 401 of the Stafford Act, approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, the North Carolina Department of Health and Human Services ("NCDHHS") has confirmed that the number of cases of COVID-19 in North Carolina continues to rise and has laboratory documentation that community spread has occurred; and

WHEREAS, the continued presence of community spread in North Carolina, the rapid increase in COVID-19 cases, and the rising number of COVID-19 related deaths, both globally and in North Carolina, require us to continue our measures to slow the spread of this virus during the pandemic; and

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 the community spread of COVID-19 is critical to ensuring that our healthcare facilities remain able to accommodate those who require intensive medical intervention; and

WHEREAS, as proactive steps to prevent and respond to COVID-19, and for the purposes of protecting the health, safety and welfare of the people of North Carolina, the Governor has issued Executive Order Nos. 116-122, 124-25, 129-131, and 133-135; and

WHEREAS, in Executive Order No. 118, issued on March 17, 2020, the Governor limited operations of restaurants and bars in response to COVID-19; and

WHEREAS, in Executive Order Nos. 121 and 135, issued on March 27, 2020 and April 23, 2020, respectively, the Governor extended the limitations on restaurants and bars set out in Executive Order No. 118; 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, on March 17, 2020, the Secretary of Health and Human Service issued an Order of Abatement requiring owners, lessees, operators, and other persons in control of a restaurant or bar to abate the imminent hazard for the spread of COVID-19 created by the use of seating areas in restaurants and bars; and

WHEREAS, a renewal of this Order is necessary to continue protecting the health and safety of the residents of North Carolina, slowing the spread of the COVID-19 outbreak, protecting our most vulnerable citizens, and avoiding 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 NCDHHS, I am declaring that the use of seating areas of restaurants and bars continue to 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 continue to close all restaurant seating areas. 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 continue to close their bars.
- (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

This Abatement Order is effective as of 5:00 pm, Monday, May 4, 2020, and remains in effect until this Order is rescinded or replaced.

I have hereunto signed my name, this the 4th day of May in the year of our Lord two thousand and twenty.



Mandy Cohen, MD, MPH
Secretary, NCDHHS