



**NINTH AMENDMENT TO THE DECLARATION OF A  
STATE OF EMERGENCY IN DURHAM COUNTY, NC  
TO COORDINATE PROTECTIVE ACTIONS  
TO PREVENT THE SPREAD OF COVID-19  
(SAFER 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, 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 Center for Disease Control (CDC) recommendations on social distancing; and

**WHEREAS**, from March 17-April 9, 2020, 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 recommending 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, recommending conduct designed to protect the public health; and

**WHEREAS**, in response to the COVID-19 pandemic, the undersigned 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 declined, the undersigned issued a Fourth 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, but also permitting some additional commercial activities to occur, which Order was extended into the City limits of Durham; 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** on May 15, 2020, due to additional cases of COVID-19 being reported, but the rate of infection having slowed down, the undersigned issued a Fifth Amendment to that Declaration permitting some additional commercial activities to occur, which Order was extended into the City limits of Durham; and

**WHEREAS**, on May 22, 2020, the Governor's Executive Order 141 (EO 141) became effective, setting new standards, and relaxing some of the restrictions in an effort to permit greater personal activity and a further resumption of commerce; and

**WHEREAS**, in Section 8 of EO 138 the Governor recognized that local authorities, particularly in urban areas, may need to enact additional restrictions than those contained in EO 138, and Section 10.C of EO 141 incorporated and adopted that provision; and

**WHEREAS**, on May 22, 2020, due to additional cases of COVID-19 being reported, and the rate of infection in Durham exceeding the State average, the undersigned issued a Sixth Amendment to that Declaration permitting some additional commercial activities to occur, but also retaining some additional restrictions, and imposing others, which Order was extended into the City limits of Durham; and

**WHEREAS**, The City and County of Durham have convened a Recovery and Renewal Task Force, to provide advisory recommendations on best public health practices to safely reopen businesses, while minimizing the potential transmission of COVID-19; and

**WHEREAS**, on May 29, 2020, upon the issuance of voluntary standards from the Roundtables operating as part of the Task Force, the undersigned issued a Seventh Amendment to the Declaration, moving from a Stay at Home standard, to a Safer at Home standard, allowing greater travel, personal, and business activities to commence, while still maintaining many protections and strongly encouraging persons at a high risk of infection to only travel for essential purposes; and

**WHEREAS**, on June 12, 2020, the undersigned issued an Eighth Amendment to that Declaration allowing greater travel, personal, and business activities to commence, while still maintaining many protections and strongly encouraging persons at a high risk of infection to only travel for essential purposes; and

**WHEREAS**, since that time, infection rate trends in the State of North Carolina, and in Durham, have demonstrated an upward trend, requiring greater protective measures be instituted; and

**WHEREAS**, on June 26, 2020, the Governor issued Executive Order 147, extending Phase II (EO 141) through at least July 17, 2020, and imposing a statewide order to wear masks in an effort to reduce the spread of COVID-19; and **WHEREAS**, the pandemic has resulted in the cancellation of study abroad programs resulting in several hundred additional college students needing local housing; 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 people 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 141, 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**, people must, to the extent possible in the current public health crisis, and in a safe an incremental manner, resume their personal and professional activities; and

**WHEREAS**, since issuing the Eighth Amendment the undersigned, in consultation with the relevant health authorities, continues to seek ways to protect the health of our residents, facilitate efforts to battle COVID-19, and permit the safe reopening of such activities as can be allowed; and

**WHEREAS**, based on consultation with Public Health and community stakeholders the undersigned has determined that the additional restrictions and prohibitions identified below which exceed the standards set forth in Governor Cooper’s current Executive Orders, 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**, based on consultation with Public Health and community stakeholders it appears at this time that some additional 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, Fourth, Fifth, Sixth, Seventh, and Eighth 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 141, as extended by EO 147, are adopted and incorporated into this Order.

A. **Safer at Home** This Order adopts Sections 2 and 3.A of EO 141, lifting the Stay at Home Order, and strongly encouraging persons at high risk of infection to only travel for absolutely essential purposes.

B. **Mass Gatherings** This Order specifically includes the revised definition of both indoor and outdoor “mass gatherings” in Section 7 of EO 141.. This Order also adopts the exceptions and additional provisions of that Section for those businesses and activities which are permitted to occur within the City and County of Durham. This Order also exempts from the definition of “mass gatherings” worship, religious, and spiritual gatherings, and other activities constituting the exercise of First Amendment rights, as well as funerals and weddings; however, all such activities must comply with the Social Distancing and Sanitation Requirements of Section 2.C of this Order.

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 141 and EO 147:

1. Employers shall conduct basic health screenings at the beginning of every employee's shift, which shall include:

a. Discussion about any:

Fever or chills

Cough

Shortness of breath or difficulty breathing

Fatigue

Muscle or body aches

Headache

New loss of taste or smell

Sore throat

Congestion or runny nose

Nausea or vomiting

Diarrhea;

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 people. 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

In addition to the requirements of EO 147, 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 COVID-19.

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.

11. Signage. All businesses shall have prominently displayed at their entrance a sign, clearly legible at a distance of at least fifteen (15) feet, advising those who enter of the requirement to wear a face covering while on their premises.

**Section 3. Allowed Business Reopenings.**

- A. Subject to compliance with the Social Distancing and Sanitation Requirements of Section 2.C above, and the requirements of EOs 141 and 147, this Order allows retail activities, except as otherwise restricted in this Order, to continue.
- B. Subject to compliance with the Social Distancing and Sanitation Requirements of Section 2.C above, and the requirements of EOs 141 and 147, which include requirements of the Department of Health and Human Services, this Order allows the following activities, except as otherwise restricted in this Order, to continue.
  1. Entertainment and Sporting Events in Large Venues as specified in Section 9 of EO 141, except that the number of spectators is limited to 10, regardless of whether the event is located indoors or outdoors.
  2. The training of Professional and College Athletes, as specified in Section 8.C of EO 141.
- C. Subject to compliance with the Social Distancing and Sanitation Requirements of Section 2.C above and as otherwise specified herein, and the requirements of EOs 141 and 147, the following businesses and activities may continue:
  1. Restaurants, and those businesses which EO 141 regulates in the same manner as restaurants, for On-Premises Service, with the further requirement that no more than six (6) people may be seated together at a table, unless the people who are seated together have been practicing social distancing together.
  2. Personal Care, Grooming and Tattoo Businesses.
  3. Indoor and Outdoor Pools for use by more than one household.



D. Subject to compliance with the Social Distancing and Sanitation Requirements of Section 2.C above and as otherwise specified herein, and the requirements of EO 141, most particularly Section 4B, and EO 147 outdoor exercise classes may continue operations. The additional requirements for these classes are as follows:

1. A maximum limit of 25 persons,
2. A minimum of 10 feet of social distancing between participants,
3. They must meet all of the requirements of the Department of Health and Human Services, including the most recent version of the “Guidance on Indoor Exercise Facilities, Indoor Fitness Facilities and Guidance on Indoor Exercise Facilities, Indoor Fitness Facilities and Gyms: Enabling Outdoor Operations. This is available online at:

<https://files.nc.gov/covid/documents/guidance/NCDHHS-Guidance-for-Outdoor-Fitness-Phase-2.pdf>

E. **Voluntary Self-Certification** The Recovery and Renewal Task Force, comprised of public health experts, industry leaders, and the Durham Chamber of Commerce, continues to provide advisory guidance to Mayor Schewel and Commissioner Jacobs outlining voluntary, self-certification processes based on public health best practices reviewed by the Durham County Director of Public Health.

This advisory guidance offers industry-specific models of how to reopen safely and demonstrate to residents, customers, guests, and visitors, that the business is voluntarily adopting best public health practices. It is intended to be a tool to help our community feel confidence in the safety and sanitation plans of the businesses who choose to self-certify.

Durham’s public health community will continue its aggressive strategies for testing, tracing, and treatment and is hopeful that those steps, in conjunction with the voluntary safety measures taken by businesses, will allow Durham to continue the process of recovery and renewal.

**Section 4. Limitations on Business Operations.** In addition to the Social Distancing and Sanitation Requirements specified in EO 141, and the Social Distancing and Sanitation Requirements of above Section 2.C, the following additional requirements are established for:

A. **Childcare facilities.** In addition to the requirements of EO 141, Section 6.F., and EO 147, childcare facilities must meet all of the requirements of the North Carolina Department of Health and Human Services, including the most recent version of the “Interim Coronavirus Disease 2019 (COVID-19) Guidance for Child Care Settings. This is available online at:



<https://files.nc.gov/ncdhhs/documents/files/covid-19/NC-Interim-Guidance-for-Child-Care-Settings.pdf>

- B. Summer Camp facilities.** In addition to the requirements of EO 141, Section 6.G, summer camp facilities must meet all of the requirements of the North Carolina Department of Health and Human Services, including the most recent version of the “Interim Guidance for Day Camp Settings”. This is available online at:

<https://files.nc.gov/ncdhhs/documents/files/covid-19/NC-Interim-Guidance-for-Day-Camp-Settings.pdf>

**Overnight Camp facilities.** In addition to the requirements of EO 141, Section 6.G., and EO 147 overnight camp facilities must meet all of the requirements of the Department of Health and Human Services, including the most recent version of the “Interim Guidance for Overnight Camp Settings” . This is available online at:

<https://files.nc.gov/covid/documents/guidance/Interim-Guidance-for-Overnight-Camps-PHASE-2.pdf>

- C. 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 strongly discouraged, but may occur so long as they do not exceed the mass gathering limit





of 10 persons and comply with the Social Distancing and Sanitation Requirements of Section 2. C and the Safety Precautions of 4.C.1 above.

b. 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.

- D. Long-term Care Facilities.** Skilled nursing facilities shall:
1. Remind workers to stay home when they are ill and prevent any workers who are ill from coming to work and/or staying at work.
  2. Implement the following measures:
    - a. Screen all workers at the beginning of their shift for the symptoms specified in Section 2.C.1.a. above.
    - b. Take all employees' temperatures at the beginning of their shift.
    - c. Documenting both the presence and absence of any symptoms. If the worker is ill, the facility must have the worker put on a facemask and leave the workplace.
    - e. Canceling communal dining and all group activities, including internal and external activities.
    - f. Implementing universal use of a facemask for all workers while in the facility, assuming supplies are available.
    - g. Actively monitor all residents upon admission, and at least daily for fourteen days, for the symptoms specified in Section 2.C.1.a above and shall continue to monitor residents at least daily.
    - h. Notify the local health department immediately about either of the following:
      - i. Any resident with new, confirmed, or suspected COVID-19.
      - ii. A cluster of residents or workers with symptoms of respiratory illness. A "cluster" of residents or workers means two (2) or more people (residents or workers) with new-onset respiratory symptoms in a period of 72 hours.
  3. Other kinds of long-term care facilities. Adult care homes, family care homes, mental health group homes, and intermediate care facilities for individuals with intellectual disabilities are strongly encouraged to follow the mitigation measures listed above, assuming supplies are available.

**Section 5.** Business Closures. The Order adopts and incorporates the continued Orders for Closure specified in Section 8 of EO 141, and the exceptions provided thereto.

**Section 6.** 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 7.** In order to protect our employees and the public they serve, the Managers of the City and County, in consultation with the cognizant health authorities, shall determine the appropriate practices and procedures to be employed in order to permit our governments to safely deliver services and otherwise function. They shall also determine, given the venue where meetings may be held, the maximum occupancy for such venues and the practices and procedures to permit public attendance and participation, while minimizing the potential for transmission of COVID-19.

**Section 8.** 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 9.** 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 Eighth Amendment, violations of which are a criminal offense.

**Section 10.** 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. This authorization includes, but is not limited to, the following:

A. Site plan submittal shall not be required prior to the issuance of building permits for new facilities or additions (“project”) that are being constructed to directly address the diagnosis or treatment of COVID-19. However, a site plan showing conformance with all UDO requirements shall be submitted to the Planning Department within three months of issuance of the first building permit for a project; and,

B. The time limitations on temporary use permits issued pursuant to UDO Section 5.5.1 may be waived for educational, medical, pharmaceutical, retail, and restaurant establishments while the County COVID-19 Declaration of Emergency is in effect; and,

C. With respect to a dwelling unit rented for student occupation by a college or university, where the college or university places and manages the student-residents, the enforcement of the dwelling unit occupancy limit described in UDO Section 17.3, Defined Terms, Family, shall be suspended. This will only apply to colleges and universities that have a COVID-19 response plan in place, that agree to comply with all applicable Centers for Disease



Control guidelines, and where the college or university requires that the dwelling unit occupants comply with the social distancing and face mask requirements of the more restrictive of an order issued by the Governor, or an order issued by either the City or County.

**Section 11.** A copy of this Ninth 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 12.** All provisions of this Ninth Amendment shall take effect at 5:00 p.m. on July 9, 2020. This Ninth 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 Ninth Amendment is electronically signed at this date and time: July 9, 2020, at 9:30 a.m.

  
\_\_\_\_\_  
Wendy Jacobs, Chair  
Durham County Board of Commissioners