



**CITY OF BURLINGTON, NORTH CAROLINA
AMENDMENT AND MODIFICATION OF THE
DECLARATION OF LOCAL STATE OF EMERGENCY
APRIL 8, 2020**

WHEREAS, the Burlington City Council, the governing body of the City of Burlington, by and through the Mayor, pursuant to the authority set out in Chapter 166A, Article 1A, of the North Carolina General Statutes and Burlington City Code of Ordinances, Chapter 10, declared a State of Emergency (“SOE”) in the City of Burlington, effective March 27, 2020; and

WHEREAS, in said declaration, the Mayor set out the background and history establishing the basis for imposing such a SOE within the municipal jurisdiction, which included the statewide actions implemented, up to that date, by the Governor of the State of North Carolina by way of Executive Orders Nos. 116, 117, 118, 119, and 120; and

WHEREAS, beginning at 5:00 p.m. on Monday, March 27, 2020, the Governor issued an additional Executive Order No. 121, implementing a “Stay At Home” order for the residents and visitors of North Carolina; and

WHEREAS, in addition to his “Stay At Home” Executive Order of March 27, 2020, the Governor has issued Executive Order No. 122, effective March 30, 2020, to assist school’s and local government’s access to state surplus property, and Executive Order No. 124, effective March 31, 2020, prohibiting utilities in the state, including municipal utilities regulating disconnects, late fees, penalties and interest on outstanding utility bills; and

WHEREAS, Executive Order No. 121, Section 4 specifically provides for local governments through municipality and county declared States of Emergency to impose such restrictions and prohibitions that serve to be more stringent and restrictive than the prohibitions and restrictions established by the Governor’s Executive Orders; and

WHEREAS, said March 27, 2020 SOE declaration by the Mayor included provisions that served to restrict and prohibit specified activities and behaviors within the City’s jurisdiction, more stringent than those restrictions and prohibitions established in the Governor’s various Executive Orders; and

WHEREAS, in his Executive Order No. 121, the Governor ordered all North Carolina residents to “Stay At Home” and that all businesses except those declared to be “essential” to the response to COVID-19, to close to further the goal of minimizing instances where individuals interact with one another; and

WHEREAS, pursuant to the Governor's Executive Order No. 121, businesses excluded from the list of "COVID-19 Essential Businesses and Operations" may apply to the North Carolina Department of Revenue ("NCDOR") to request to be considered an "essential business" and may remain operational pending a decision by the NCDOR; and

WHEREAS, the process established by the State provides for businesses to apply to the North Carolina Department of Revenue for a ruling as to whether it can be deemed to be an "essential" business, as defined in "COVID-19 Essential Businesses and Operations," and thereby exempt from the statewide prohibition to remain open during the state imposed "Stay At Home" order; and

WHEREAS, the NCDOR is systematically, through form letters, responding to applicants declaring them to be "not essential" in that "your business does not qualify to be designated essential under Sections 2(c)(2)-(30) of the Executive Order." However, NCDOR then indicates that the applicant may continue to operate conditioned upon it following minimum measures of social distancing requirements between and among employees and employees and customers, except at the point of sale or purchase; and

WHEREAS, the City finds such responses from NCDOR to be confusing to the business community resulting in inequitable treatment of business operations that are similarly situated, namely not essential during this time of the COVID-19 crisis, and that such perfunctory responses by NCDOR serve to undermine the City's efforts to protect the health, safety and well-being of the residents and visitors of Burlington; and

WHEREAS, in the Burlington Police Department's ("BPD") efforts to enforce the restrictions and prohibitions established in the Governor's Executive Orders and the Mayor's SOE of March 27, 2020, BPD officers have observed various behaviors and actions in the City's jurisdiction that are in violations of said orders and are clearly counter to the purpose and intent of the state and local orders, that being to limit exposure to the virus by way of effective social distancing and sanitation practices; and

WHEREAS, operators, patrons, and employees of car washes, both drive-thru and self-service, have reported and local law enforcement has observed that basic social distancing and public health measures are failing to be observed by car washes in Burlington in that patrons are serially utilizing equipment without regard to sanitizing between patrons and that operators and employees are serially entering in the interiors of patrons' vehicles to perform cleaning and vacuuming work; and,

WHEREAS, continued concern has been expressed by local public health professionals, retail store operators, retail store employees, retail patrons and local law enforcement that social distancing and public safety measures are not being practiced or are practiced inconsistently in retail stores throughout the City and that such behaviors are serving to put at undue risk the retail store employees, the retail store patrons, and the public at large; and

WHEREAS, since the entry of the Mayor’s SOE of March 27, 2020 and the Governor’s Executive Order No. 121 “Stay At Home” order, the Governor has admonished the public that compliance with the “Stay At Home” order throughout the State is crucial and must be improved; and

WHEREAS, based upon the daily Situation Report put out by Alamance County Emergency Management, the number of individuals infected with the COVID-19 virus continues to increase daily in Alamance County; and

WHEREAS, scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 particularly, and evidence that age, condition and health of a significant portion of the population of the City places the population at risk of serious health complications, including death from COVID-19; and

WHEREAS, the City continuously seeks guidance and advice from public health professionals, medical experts, the national Center for Disease Control (“CDC”), the North Carolina Department of Health and Human Services (“NCDHHS”), for means to slow the spread of COVID-19; and,

WHEREAS, the restrictions and prohibitions set out herein are entered following the consultation with the Alamance County Director of Public Health; and,

WHEREAS, on April 5, 2020, the national Center for Disease Control advised that, in the face of the height of potential health impact, individuals wear protective masks when out in public; 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, this Amended Declaration is necessary to slow the rate of the spread and is the least restrictive based upon the current evidence.

WHEREAS, the Mayor’s State of Emergency initially imposed effective March 27, 2020 continues to exist in the City of Burlington, and imposing the additional conditions, clarifications, restrictions and prohibitions ordered herein are reasonable and necessary measures to maintain order and protect the public health, safety, and welfare and to secure property within the jurisdiction; and

WHEREAS, as a result of the continued described emergency, the existing conditions and anticipated conditions pose a direct threat to the health and safety of residents of the City, visitors to the City, and employees of the City of Burlington; and

NOW, THEREFORE, pursuant to the authority vested in me as Mayor of the City of Burlington, North Carolina, pursuant to Chapter 166A North Carolina General Statutes and Burlington City Code Section 10-26:

Section 1. The State of Emergency initially declared effective 8:00 a.m. on March 27, 2020 continues in effect, as amended herein, within the jurisdiction of the City of Burlington.

Section 2. The emergency area covered by this State of Emergency shall be the entire jurisdiction of the City.

Section 3. This Amended Declaration is to ensure that the maximum number of people implement social distancing when visiting essential businesses as allowed to operate under the Governor's Executive Order No. 121 and to continue to slow the spread of COVID-19 to the maximum extent possible. When people need to leave their places of residence, whether to obtain or perform essential services, or to otherwise facilitate authorized activities necessary for continuity of social and commercial life, they should at all times reasonably comply with CDC recommendations of social distancing requirements of at least six (6) feet apart, but businesses have a responsibility to provide as safe an environment as possible by taking these required steps and should consider voluntarily implementing the encouraged steps. All provisions of this Amended Declaration should be interpreted to effectuate this intent.

Section 4. The restrictions and prohibitions set out in the Mayor's March 27, 2020 declaration of a State of Emergency shall remain in full force and effect, as amended herein with the additional clarifications, conditions, restrictions and prohibitions:

1. **Car Washes** – Car washes in the City of Burlington may remain open and operating for exterior car washes only. With drive-thru car washes, patrons shall remain in the vehicle. Internal vacuuming stations/islands may remain operational for patron use only. Sanitizer must be provided by the operator and readily available onsite to enable the cleaning and sanitizing of washing and vacuuming equipment (handles, wands, hoses, etc.) after each use of the equipment. In no instance shall car wash staff/employees enter a patron's vehicle.
2. **Non-essential business designation by the North Carolina Department of Revenue.** In those instances where a business is excluded from the list of "COVID-19 Essential Businesses and Operations" set out in Executive Order No. 121 Section 2.(C) and applies to the North Carolina Department of Revenue to request to be determined an "essential business," should the NCDOR determine in its required written response to the applicant that the applying business does not qualify to be designated essential under the Governor's Executive Orders, then said business in the City of Burlington shall cease operating, close, and remain closed pursuant to Section 2.(A.) of said Executive Order, regardless of its adherence to specified measures of social distancing it may observe. Pursuant to Executive Order No. 121, Section 2.(G.) such a business may maintain "Minimum Basic Operations," that being:
 - "a. The minimum necessary activities to maintain the value of the business's inventory, preserve the condition of the business's physical plant and equipment, ensure security, process payroll and employee benefits, or related functions.
 - b. The minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences."

3. **Retail Store Provisions Required in the City of Burlington to Ensure Utilization of Best Practices for Public Health During the COVID-19 Global Pandemic.**

For retailers determined as an essential retailer by CISA sector standards (food, including packaged food, beverages, pet supplies, feed, tools, shelter, severe weather preparedness, first aid, fishing/hunting goods for food production, critical infrastructure work products, first responder and law enforcement supply, personal hygiene products, medicines, cleaning supplies, office supplies, clothing, reading materials, etc.), the City hereby requires that the following best practices be implemented in a part of society's effort to promote public health, enable social distancing, and encourage safety.

Customers should bring the fewest number of people per family necessary to shop, allow for space with other customers while shopping, and practice effective social distancing while waiting in lines.

a. **General Provisions.** Retail stores shall enact the following provisions to promote best practices related to public health within the retail store:

- i. Clean all cart and hand basket handles every time before providing them to customers;
- ii. Provide hand sanitizer in the store;
- iii. Ensure that store employees are following CDC and/or NC DHHS guidelines for hygiene and safety;
- iv. Provide store employees with leave time and flexible options, so they may take time off if they feel ill, need to quarantine due to exposure, or experience symptoms indicating the possibility of the COVID-19 virus.

b. **Store Entry Regulation In Retail Stores of 7,500 Square Feet or More.** In an effort to promote social distancing, such retail stores must implement the following provisions:

- i. Store employees will mark a queue at a single-entry door and direct arriving customers there, where they will be admitted one-by-one and counted.
- ii. Store employees will install legible signage (in both English and Spanish) will remind customers of the importance of social distancing while they are waiting to enter a store. Said signage shall also include the maximum patrons allowed in the store at any time.
- iii. Where outside waiting is anticipated and experienced, the retail store shall post distance markers on the sidewalk in front of the store to mark the 6-foot physical distancing space for waiting customers outside.

- iv. Once a store reaches its capacity, customers will be admitted inside on a strict “1-out, 1-in” basis.

c. **Shopping Inside Retail Stores of 7,500 Square Feet or More.**

- i. All such retail stores are encouraged to implement one-way aisles. Designating with visible signage along aisle entryway, along with tape or by other means, the direction customers should proceed to assist with ensuring six-foot spacing for employees and customers along aisles to maintain appropriate distance if defined aisles exist.
- ii. Frequent signage shall be established throughout retail stores to remind customers of the need to maintain social distancing, especially while waiting in lines.
- iii. Once customers have checked-out they should be directed to exit through a different door than they entered. This is intended to lessen the instances of patrons closely passing each other.

d. **Maximum Allowance of Individuals Within a Business at Any Point in Time When the Total Square Footage of the Retail Store is 7,500 Square Feet or More.** In order to determine the maximum occupant load for such a retail business, the total square footage of the building is multiplied by .0017 which equates to the maximum number of customers that may be permitted in the building. Employees are not included in this total.


- i. Example – Retail Store 131,000 Square Feet
 - Step 1: 131,000 Sq.Ft. of Total Building Square Footage X .0017 = 222.70
 - Step 2: 223 Maximum Occupants
- ii. **Methodology.** The .0017 is a simple way to determine the maximum number of occupants, excluding employees, that are permitted in a building during the COVID-19 Pandemic. It has been conservatively estimated that 50% of building space is occupied by shelves, restrooms, bathrooms, breakrooms, stockrooms, offices and other areas not readily accessible. Based on this, .0017 is based on 50% of the usable floor space being allowed to have ~20% of its maximum number of occupants based on the current NC Building Code occupant load factor of 60 square feet per person. This allows patrons to use the entire building while practicing proper social distancing.

Section 5. These provisions shall be enforced by the Burlington Police Department and other law enforcement agencies with jurisdictional authority in the City of Burlington.

Section 6. I hereby order the City of Burlington law enforcement officers, employees, and all other emergency management personnel subject to our control to cooperate in the enforcement and implementation of the provisions of this Amended Declaration of April 6, 2020, as well as the provisions, restrictions, and prohibitions set out in the City of Burlington Declaration of State of Emergency of March 27, 2020, and all Executive Orders of the State of North Carolina's Governor.

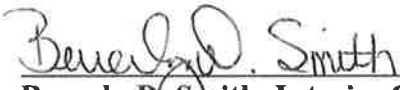
Section 7. This Declaration shall take effect at 7:00 p.m. on the 8th of April, 2020 and shall remain in effect until modified or rescinded.

Declared this 6th day of April, 2020.



Ian Balfutis, Mayor
City of Burlington, NC

Attest:



Beverly D. Smith, Interim City Clerk,
City of Burlington, NC

