

AN ORDINANCE LIMITING MASS GATHERINGS IN ORDER TO
MITIGATE THE SPREAD OF "COVID-19"

WHEREAS, The North Carolina General Assembly has adopted Article 1A of Chapter 166A of the General Statutes, entitled "North Carolina Emergency Management Act," which sets forth the authority and responsibility of the Governor, State agencies, and local governments in prevention of, preparation for, response to, and recovery from natural or man-made emergencies; and

WHEREAS, N.C. Gen. Stat. § 166A-19.22, which is part of the North Carolina Emergency Management Act, authorizes counties to declare a state of emergency under conditions and following procedures contained in N.C. Gen. Stat. §166A-19.22; and

WHEREAS, Coronavirus Disease 2019 ("COVID-19") is a respiratory disease that can result in serious illness or death by the SARS-CoV-2 virus, which is a new strain of coronavirus previously unidentified in humans and which can spread from person to person; and

WHEREAS, the World Health Organization declared COVID-19 is a Public Health Emergency of International Concern on January 30, 2020; and

WHEREAS, the Centers for Disease Control and Prevention (the "CDC") has warned of the high public health threat posed by COVID-19 globally and in the United States and has deemed it necessary to prohibit or restrict travel to areas designated by the CDC; and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary declared a public health emergency in the United States for COVID-19 under Section 391 of the Public Health Service Act; and

WHEREAS, on March 10, 2020, the Honorable Governor Roy Cooper issued Executive Order No. 116 which declared a State of Emergency to coordinate the state's response and protective actions to address the COVID-19 public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina; and

WHEREAS, on March 13, 2020, the President of the United States, Donald J. Trump, issued an emergency declaration for all states, tribes, territories, and the District of Columbia, retroactive to March 1, 2020, which declared that the COVID-19 pandemic in the United States constitutes a national emergency; and

WHEREAS, in responding to the COVID-19 pandemic, and for the purpose of protecting the health, safety, and welfare of the people of North Carolina, Governor Cooper has issued Executive Order Nos. 117-122, 124-125, 129-131, 133-136, 138-144, 146-153, 155-157, 161-165, 169-173, and 176-177; and most recently Executive Order 181; and

WHEREAS, N.C. Gen. Stat. § 166a-19.30(c) in conjunction with N.C. Gen Stat. § 166A-19.31 and Scotland County Ordinance #16 Section IX authorize the County to prohibit and restrict the movement of people in public places; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A19.31(b)(5) and Scotland County Ordinance #16 Section IX, authorize the County to

prohibit and restrict other activities or conditions, the control of which may be reasonably necessary to protect the health and safety of persons in North Carolina during a state of emergency; and

WHEREAS, N.C. Gen. Stat. § 166A-19.22(b)(2) limits the “emergency area of a state of emergency declared by a county” such that it does not include any area within the corporate limits of any municipality; and such a limitation applies to ordinances of this nature as well; and

WHEREAS, the Scotland County Board of Commissioners (the “County”) has duly adopted an ordinance providing that, when there is an existing or threatened state of emergency within the County, extraordinary measures are authorized to protect the health and safety of persons within the County; and

WHEREAS, in Scotland County in recent weeks COVID-19 daily diagnoses have been at their highest point to-date since the onset of pandemic; and

WHEREAS, this significant increase in local COVID-19 cases has resulted in an attendant strain on local health care system capacity because of increased emergency department visits as well as COVID-19 associated hospitalizations; and

WHEREAS, local daily deaths attributed to COVID-19 have substantially risen; and

WHEREAS, urgent and immediate action is necessary to protect the lives of Scotland County citizens and others and to mitigate or avoid further strain on Scotland County’s health care system capacity and resources; and

WHEREAS, Governor Cooper, in Executive Order 181, specifically authorized and encouraged local governments to take actions necessary to provide law enforcement officials with the flexibility to use civil, rather than criminal, penalties to enforce violations of said Executive Order; and

WHEREAS, the Honorable Ralph Kersey, the duly elected and serving Sheriff of Scotland County, has committed the resources of his office to educate, warn and ultimately enforce local actions seeking to mitigate and eventually eradicate this disease; and

WHEREAS, enacting an Ordinance supporting the provision of Governor Cooper’s Executive Orders, including Executive Order 181, by reinforcing the restrictions and prohibitions ordered herein is necessary to protect public health, safety, and welfare of citizens in the County; and


NOW, THEREFORE, be it ordained that:

1. Executive Order 181, issued by the Honorable Roy Cooper, Governor of the State of North Carolina is incorporated herein by reference.
2. The findings and definitions in said Executive Order are accepted and used herein consistent therewith.

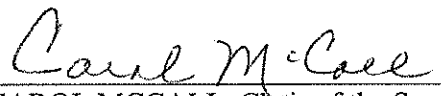
3. Individuals, offices and businesses in those areas of Scotland County, North Carolina to which this Ordinance applies are to comply with Governor Cooper's Executive Order 181 with regard to "mass gatherings" as defined therein as an event or convening which brings together more than ten (10) people indoors or more than fifty (50) people outdoors at the same time in a single confined space.
4. As stated in the Executive Order, "worship, religious and spiritual gatherings, funeral ceremonies, wedding ceremonies and other activities constituting the exercise of First Amendment rights are exempt from all of the requirements of the Executive Order" and are thus exempt from this Ordinance as well.
5. The prohibition for "mass gatherings" does not include gatherings for health and safety, to look for and obtain goods and services, for work, or for receiving governmental services, nor does it apply to gathering at private residences.
6. "Mass gatherings" does not include normal operations at airports, bus and train stations or stops, medical facilities, libraries, shopping malls and shopping centers, nor does it include events if the participants stay within their vehicle (or as to open air vehicles (such as ATVS) which are eight (8) feet apart).
7. Individuals, offices and businesses found to be functioning substantially in violation of this Ordinance may be cited for same. It is the expectation of the undersigned and of Sheriff Kersey that Sheriff Kersey's officers have discretion to advise, educate and warn those who purportedly are in violation rather than issuing citations for an initial incident. Said law enforcement officers, pursuant to their inherent authority in conjunction with this Ordinance, are encouraged to disperse participants of "mass gatherings" which do not comply herewith.
8. Individuals, offices and businesses that continue in violation after being warned are subject to a civil penalty of One Hundred (\$100.00) for each violation. Each day prohibited conduct occurs or conditions exist constitutes a separate violation.
9. If any section or provision of this Ordinance or its application to any person or circumstance is held invalid, it shall not affect any other provision or application of this Ordinance, which can be given effect without the invalid provision or application. The provisions of this Ordinance are declared to be severable.
10. This Ordinance shall not apply to any area within the corporate limits of any municipality.
11. Appeals from the imposition of any civil penalty imposed hereunder shall be made in writing by the recipient of the proposed penalty, to the Scotland County Manager. Each written appeal, with a statement of the grounds therefor, must be delivered to the County Manager within ten (10) working days of the date upon which the penalty was imposed. The County Manager will schedule and conduct the review of the appeal and his decision thereon shall be final unless appealed to the Scotland County Board of Commissioners.

12. This Ordinance will terminate upon adoption of an action to that effect by the Scotland County Board of Commissioners.

13. This Ordinance is effective upon its adoption.



JASON ROBINSON, Clerk to the Scotland
County Board of Commissioners



CAROL MCCALL, Chair of the Scotland
County Board of Commissioners

