

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

November 30, 2021

**DECLARATION OF
LOCAL STATE OF EMERGENCY**

REQUIREMENTS FOR FACE COVERING IN PUBLIC SPACES

WHEREAS, beginning in December 2019, a novel coronavirus, now designated SARS-CoV2 which causes the disease COVID-19, has spread through the world and has now been declared a global pandemic by the World Health Organization;

WHEREAS, a State of Emergency was declared by the Governor of North Carolina on March 10, 2020;

WHEREAS, a local State of Emergency was declared by Buncombe County Commissioners on March 12, 2020, acknowledging the gravity of the COVID-19 pandemic;

WHEREAS, Governor Cooper has, as circumstances have changed over time, issued a number of modifications to the statewide emergency declaration, including Executive Order Nos. 117-122, 124-125, 129-131, 133-136, 138-144, 146-153, 155-157, 161-165, 169-173, 176-177, 180-181, 183-185, 188-193, 195, 197-198, 200, 204-207, 209-212, 215-217, 219-221, 224, and 229;

WHEREAS, the Centers for Disease Control and Prevention ("CDC") advises new variants of the virus are expected to occur; and taking measures to reduce the spread of infection, including getting a COVID-19 vaccine, is the best way to slow the emergence of new variants;

WHEREAS, the CDC recommends that in areas of substantial or high transmission that people wear masks indoors in public to maximize protection and prevent possibly spreading it to others;

WHEREAS, current incidence rates in Buncombe County demonstrate a case rate of 135 per 100,000 per week which is an increase from 107 per 100,000 four weeks prior and a 26% increase, roughly 350 new cases are entering the public health workflow each week; and the percent positivity has increased to 5.7% following four weeks of lower than 5% values;

WHEREAS, based on these data trends, indicating substantial or high transmission rates locally, Buncombe County public health officials recommend that Buncombe County follow this CDC guidance; and

WHEREAS, this Board finds it in the best interest of the citizens and residents of Buncombe County to align with CDC guidance.

NOW THEREFORE, pursuant to the authority contained in Chapter 21, Buncombe County Code of Ordinances and Article 1A of the N.C. Gen. Stat. Chapter 166A, the Board of Commissioners, do hereby declare and order the following:

1. A Local State of Emergency for Buncombe County has been adopted (hereinafter "order") and shall remain in effect until repealed, replaced, or rescinded.
2. Buncombe County, in consultation with health care professionals and based upon guidance from CDC and NCDHHS, finds that arrangement arrangements must be made immediately to take such actions as are deemed necessary and appropriate to ensure that COVID-19 remains controlled and that residents and visitors in Buncombe County remain safe and secure.
3. Face coverings are required of all Buncombe County citizens, residents, and visitors in any indoor spaces in public spaces to maximize protection from COVID-19 and its variants and prevent possibly spreading it to others.
 - a. All indoor public places means business establishments, offices and workplaces, public transportation facilities and vehicles, and any indoor place the public is invited or allowed to enter and gather.
 - b. For restaurants, bars and other food establishments, this includes that all guest wear face coverings at their tables unless actively drinking or eating.
 - c. "Restaurants" means permitted food establishments, under N.C. Gen. Stat. § 130A-248, and other establishments that both prepare and serve food. This includes, but is not limited to, restaurants, cafeterias, food halls, dining halls, food courts, and food kiosks
 - d. Bars" means establishments that are not eating establishments or restaurants as defined in N.C. Gen. Stat.§§ 18B-1000(2) and 18B-1000(6).
4. Face Coverings must be worn indoors if anyone else is in that space who is not a member of the same household. This order does not apply in situations where individuals are alone in an office or other similar work environment, in the home, or in outdoor settings where social distancing can be achieved.
5. "Face Covering" means a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears and fits snugly against the side of a person's face. A Face Covering can be made of a variety of synthetic and natural fabrics, including cotton, silk, or linen. Ideally, a Face Covering has two (2) or more layers. A Face Covering may be factory-made, sewn by hand, or can be improvised from household items such as scarfs, bandanas, t-shirts, sweatshirts, or towels. These Face Coverings are not intended for use by healthcare providers in the care of patients.
6. This order shall apply to all people at least five (5) years old, unless an exception applies. These requirements are recommended for all people over the age of two (2) years old.
7. Exceptions: This Executive Order does not require Face Coverings for-and a Face Covering does not need to be worn by-a worker or Guest who:
 - a. Should not wear a Face Covering due to any medical or behavioral condition or disability (including, but not limited to, any person who has trouble breathing, or is unconscious or incapacitated, or is otherwise unable to put on or remove the Face Covering without assistance);

- b. Is under five (5) years of age;
- c. Is actively eating or drinking;
- d. Is seeking to communicate with someone who is hearing-impaired in a way that requires the mouth to be visible;
- e. Is giving a speech for a broadcast or to an audience;
- f. Is working at home or is in a personal vehicle;
- g. Is temporarily removing his or her Face Covering to secure government or medical services or for identification purposes;
- h. Would be at risk from wearing a Face Covering at work, as determined by local, state, or federal regulations or workplace safety guidelines;
- i. Has found that his or her Face Covering is impeding visibility to operate equipment or a vehicle; or
- j. Is a child whose parent, guardian, or responsible person has been unable to place the Face Covering safely on the child's face.

Anyone who declines to wear a Face Covering for these reasons should not be required to produce documentation or any other proof of a condition.

Children under two (2) years of age should not wear a Face Covering.

Worship, religious, and spiritual gatherings, funeral ceremonies, wedding ceremonies, and other activities constituting the exercise of First Amendment rights are exempt from all the requirements of this order.

- 8. All operators and owners of indoor public spaces are strongly recommended to implement social distancing practices within spaces to further minimize the risk of spread in addition to the face covering requirement.
- 9. All entities and individuals engaging in these exempted activities are strongly encouraged to follow the continuing recommendations to Promote Social Distancing and Reduce Transmission, by wearing and requiring Face Coverings. Wearing a proper face covering does not replace social distancing.
- 10. All citizens, residents and visitors are strongly encouraged to follow additional CDC and NCDHHS guidance which can be found at <https://covid19.ncdhhs.gov/guidance>.
- 11. By and with the consent of the mayors of the following named municipalities within Buncombe County, this order applies within the municipal limits of the City of Asheville, the Town of Biltmore Forest, the Town of Black Mountain, the Town of Montreat, the Town of Woodfin, the Town of Weaverville.
- 12. It is further ordered that the Emergency Management Plan adopted by Buncombe County, and that all applicable mutual assistance compacts and agreements are in effect and shall remain in effect until this order expires or is rescinded. All Emergency Management and Health and Medical Services personnel are hereby ordered to cooperate in the implementations of the provisions of the County's Emergency Management Plan.

13. We direct that copies of this order be disseminated to the mass communications media for publication and broadcast, and that a copy of this order be posted at the County Courthouse and other public buildings as appropriate.
14. If any subsection, sentence, clause, phrase, or word of this order or any application of it to any person, structure, gathering, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision will not affect the validity of the remaining portions or applications of this order.
15. Electronic Signature. This order may be executed in one or more counterparts by PDF or other electronic transmission, each of which shall be deemed an original and which, when taken together, shall constitute one document.
16. This order shall remain in effect until 12:00 noon on Wednesday, January 5, 2022, or unless otherwise repealed, replaced, or rescinded, and may be extended based on data trends.
17. This order is effective upon its adoption.

Adopted this the 30th day of November, 2021.

ATTEST:

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

Lamar Joyner, Clerk

By: _____
Brownie Newman, Chairman