

**STATE OF NORTH CAROLINA  
COUNTY OF BUNCOMBE**

**SUPPLEMENTAL DECLARATION OF A  
LOCAL STATE OF EMERGENCY**

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; and

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, and 181;

WHEREAS, Municipalities and Counties within the State of North Carolina have the authority pursuant to N.C. Gen. Stat. § 166A-19.22 to issue local state of emergency declarations;

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.31(b)(2) and Section 21-70 and Section 30-26, et seq., of the Buncombe County Code of Ordinances, the undersigned Chair of the Buncombe County Board of Commissioners has the authority to regulate by proclamation the operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate;

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.31(b)(1) and Section 21-70 of the Buncombe County Code of Ordinances, the undersigned Chair of the Buncombe County Board of Commissioners has the authority to regulate by proclamation the movements of people in public places;

WHEREAS, in North Carolina in recent weeks, COVID-19-associated hospitalizations have been at record highs, and daily deaths attributable to COVID-19 have been at or near record highs;

WHEREAS, cases of COVID-19 in Buncombe County have increased dramatically in recent weeks due to community spread caused by gatherings of people in public and private spaces;

WHEREAS, current new cases per 100,000 population per week is at 366 which is a 158% increase in the last four weeks, and Buncombe County is averaging 135 new cases per day;

WHEREAS, in the last 2 weeks, County COVID-19 cases have increased from 209 new cases per 100,000 to 366 new cases per 100,000 per week, and new cases per 100,000 per week has increased approximately 16% since last week;

WHEREAS, in the last four weeks the percent positivity has increased from 4.7% to 8.1% in the County; and

WHEREAS, the Center for Disease Controls has found that eating and drinking on-site at locations that offer such options is an important risk factor associated with SARS-CoV-2 infection, and adults with confirmed COVID-19 were approximately twice as likely to have reported dining at a restaurant in the 14 days before becoming ill.

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. Except as set forth below, Buncombe County continues to align with the Governor's executive orders related to COVID-19 prohibitions and restrictions including Face Coverings in all settings as described in such executive orders. In addition, local government offices and agencies must have their on-site workers wear Face Coverings when they are indoors. In addition, unless an exception applies, these offices and agencies must require Face Coverings for any outdoor work within six (6) feet of another person. Local government offices and agencies must also follow the requirements for Retail Businesses established in the Executive Orders unless necessary to complete that office's mission.
2. Section 7.3.a. of Executive Order No. 181 states, in part, that nothing therein "is intended to limit or prohibit counties and cities in North Carolina from enacting ordinances and issuing state of emergency declarations which impose greater restrictions or prohibitions to the extent authorized under North Carolina law." Accordingly, notwithstanding anything to the contrary contained in the Governor's Executive Orders, further restrictions are imposed in Buncombe County as follows:
  - a. Section 3.13. **Restaurants**. c. Requirements. 1. a. of Executive Order No. 181 is modified in Buncombe County to read:

" Limit the number of Guests in the restaurant to **thirty percent (30%)** of stated fire capacity (or, for spaces without a stated fire capacity, no more than twelve (12) Guests for every one thousand (1000) square feet of the location's total square footage, including the parts of the location that are not accessible to Guests)."
  - b. **Section 5. Mass Gatherings**. 5.1. **Prohibition**. of Executive Order No. 181 is modified in Buncombe County to read:

"**Prohibition**. Mass Gatherings are prohibited. "Mass Gathering" means an event or convening which brings together more than **two (2)** people indoors or more than fifty (50) people outdoors at the same time in a single confined indoor or outdoor space. This includes parades, fairs, or festivals. In publicly accessible indoor facilities, the Mass Gathering limit applies per room of the facility. When more than **two (2)** people reside in the same household, residing together does not form a Mass Gathering."
3. **Exemptions**. 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 Executive Order, notwithstanding any other provision of this Executive Order. The undersigned strongly urges that entities and individuals engaging in these exempted activities follow the Recommendations to Promote Social Distancing and Reduce

Transmission, wear and require Face Coverings, and avoid exceeding Emergency Maximum Occupancy in the places where they meet.

However, consistent with the Governor's Executive Orders, all entities and individuals engaging in these exempted activities are strongly encouraged to follow the Recommendations to Promote Social Distancing and Reduce Transmission, wear and require Face Coverings, and avoid exceeding Emergency Maximum Occupancy in the places where they meet.

4. The provisions of the Buncombe County March 12, 2020 Declaration of State of Emergency regarding Local State of Emergency and activation of the local Emergency Management Plan shall remain in effect until otherwise repealed, replaced, or rescinded.
5. By and with the consent of the mayors of the following named municipalities within Buncombe County, this Order also applies within the municipal limits of the City of Asheville and the Town of Montreat.
6. 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.
7. This Supplemental Declaration of Local State of Emergency is effective at 5:00 p.m. on Saturday, January 2, 2021, and such alignment with current or future revised executive orders, as may be applicable, shall remain in effect until otherwise repealed, replaced, or rescinded.
8. Electronic Signature. This Declaration 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.

**IN WITNESS WHEREOF**, the undersigned County Chair has set his hand and caused the corporate seal to be affixed this 23<sup>rd</sup> day of December 2020.

ATTEST:

BOARD OF COMMISSIONERS FOR THE  
COUNTY OF BUNCOMBE

\_\_\_\_\_  
Lamar Joyner, Clerk

By: \_\_\_\_\_  
Brownie Newman, Chairman