

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

SUPERSEDING DECLARATION OF
LOCAL STATE OF EMERGENCY

November 25, 2020

**BUNCOMBE COUNTY ALIGNMENT WITH GOVERNOR'S EXECUTIVE ORDERS
ENHANCED LOCAL PROHIBITIONS AND RESTRICTIONS TO PROTECT LIVES IN
RESPONDING TO THE COVID-19 PANDEMIC**

WHEREAS, the novel coronavirus known as COVID-19 is a respiratory disease that can spread from person to person and result in serious illness or death; and

WHEREAS, the World Health Organization declared COVID-19 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 Governor Roy Cooper issued Executive Order Number 116 declaring a State of Emergency for the State of North Carolina based on the public health emergency posed by COVID-19; and

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, and 176-177; and

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; and

WHEREAS, on March 12, 2020, the City of Asheville and Buncombe County each declared local states of emergency relating to the COVID-19 pandemic; and

WHEREAS, the City of Asheville and Buncombe County have each amended their local state of emergency declarations from time to time as needed in order to address the changing conditions of the COVID-19 pandemic; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.31(b)(2) and Section 2-2(e)(6) of the City of Asheville Code of Ordinances, the undersigned Mayor of the City of Asheville 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; and

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; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.31(b)(1) and Section 2-2(e)(5), the undersigned Mayor of the City of Asheville has the authority to regulate by proclamation the movements of people in public places; and

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; and

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; and

WHEREAS, face coverings are a low-cost and highly effective way of mitigating the spread of COVID-19, and, if adopted widely by all North Carolinians, may help to prevent further re-closures of the state's businesses and operations; and

WHEREAS, on November 23, 2020, Governor Cooper issued Executive Order Number 180, which requires the wearing of face coverings in all public places where persons are unable to maintain six feet of distance between themselves and others; and

WHEREAS, Governor Cooper has called on municipalities and Counties within the State to help in the enforcement of the State's face covering requirements; and

WHEREAS, pursuant to Section 7.3, Effect on local Emergency Management Orders, the County and City Administrations may adopt ordinances and issue state of emergency declarations which impose restrictions or prohibitions to the extent authorized under North Carolina law, such as on the activity of people and businesses, to a greater degree than in the Governor's Executive Order.

IT IS ORDERED:

1. That all offices and businesses within the Emergency Area shall comply with Governor Cooper's Executive Order Numbers 176 and 180 and as amended from time to time.

2. That for purposes of this Declaration, Executive Order No. 169, Section 3.8.b.1. is amended to read:

1. Must be Seated to Be Open. A facility covered by this Subsection is closed unless it is or becomes a seated establishment for Guests. Guests must be in seats except to enter, leave, visit the restroom, and obtain food or drink.

3. 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.

4. All businesses, offices, industries, and indoor areas of every kind and nature in the jurisdictions subject to the Declaration shall post the maximum emergency occupancy at every entrance along with clear and conspicuous signage indicating that face coverings are required for entry.

5. That offices and businesses found to have been functioning substantially in violation of this declaration or the Governor's Executive Orders enumerated above shall be cited for such violations.

6. That the County and City administrations shall direct appropriate County and City employees to cite for violation of this declaration, any office or businesses in their jurisdictions that are found to be functioning in violation of the Governor's Executive Orders enumerated above.

7. That the citations issued hereunder shall carry the following escalating penalties based on the number of prior violations: A first citation shall be punished by imposition of a civil penalty in the amount of fifty dollars (\$50) and order not to repeat the offensive conduct. Upon the issuance of a second citation, any such offices and businesses shall be ordered to close immediately for a period of twenty-four (24) hours, and to pay a civil penalty in the amount of fifty (\$50). Upon the issuance of a third citation, offices and businesses shall be ordered to close immediately and remain closed for a period forty-eight (48) hours, and to pay a civil penalty in the amount of fifty dollars (\$50). Upon the issuance of any further citations, offices and businesses shall be ordered to close immediately and remained closed for a period of seventy-two (72) hours, and to pay a civil penalty in the amount of fifty dollars (\$50). These periods of closure shall only apply to days when the office or business would otherwise be open.

8. If any section, subsection, sentence, clause, or phrase of this Order and Declaration is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the Order and Declaration. The undersigned hereby declares that they would have passed this Order and Declaration and each section, subsection, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

9. By and with the consent of the mayors of the following named municipalities within Buncombe County, this Superseding Declaration of Local State of Emergency also applies within the municipal limits of the Town of Black Mountain, the Town of Woodfin, the Town of Montreat, and the Town of Biltmore Forest.

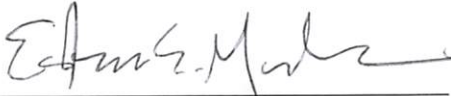
10. The provisions of the Buncombe County March 12, 2020 Declaration of State of Emergency regarding Local State of Emergency and activation of the local Emergency Management Plan shall remain in effect until otherwise repealed, replaced, or rescinded.

11. Except as to the Buncombe County March 12, 2020 Declaration of State of Emergency this Superseding Declaration of Local State of Emergency shall go into effect at 5:00 p.m. on Wednesday, November 25, 2020 and shall remain in effect until 5:00 p.m. on Friday, December 11, 2020 unless otherwise repealed, replaced, or rescinded.

12. 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 and Mayor(s) have set their hands and caused their corporate seals to be affixed this 25th day of November 2020.

CITY OF ASHEVILLE



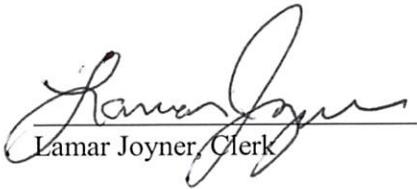
ESTHER E. MANHEIMER
MAYOR

Attest:



SARAH TERWILLIGER
DEPUTY CLERK

ATTEST:



Lamar Joyner, Clerk

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

By: Brownie Newman
Brownie Newman, Chairman