

## RESOLUTION 2020-22

### A RESOLUTION IN SUPPORT OF GOVERNOR'S EXECUTIVE ORDER REGARDING THE REQUIREMENT TO WEAR FACE COVERINGS

**WHEREAS**, on June 24, 2020 North Carolina Governor Roy Cooper issued Executive Order No. 147, effective at 5:00 pm on June 26, 2020 and to remain in effect until 5:00 pm on July 17, 2020, unless repealed, replaced, or rescinded by another applicable Executive Order; and

**WHEREAS**, the Governor's Executive Order No. 147 amends the effective date provision of Executive Order No. 141 to have that order continue in effect through the above-listed time and date and further amends Executive Order No. 141 to add Section 3.5 Face Coverings; and

**WHEREAS**, face coverings can decrease the spread of respiratory droplets from people, and evidence has grown, showing in numerous recent studies that the use of face coverings decreases the spread of COVID-19 within populations; and

**WHEREAS**, the Governor's Executive Order No. 141 required that workers in personal care, grooming, and tattoo businesses wear cloth face coverings to reduce the spread of COVID-19; and

**WHEREAS**, to prevent the spread of COVID-19, and thereby to potentially save lives, the Governor has determined that face coverings must now be required for workers in additional business segments; and

**WHEREAS**, the Governor strongly recommends that all people over the age of two (2) in North Carolina should wear a face covering to reduce the spread of COVID-19; and

**WHEREAS**, some people have medical or behavioral health issues, disabilities, or other reasons that mean they should be excepted from wearing a face covering, and Executive Order No. 147 puts North Carolinians on the honor system to identify if they are within one of the exceptions to face covering requirements and should not wear a mask; and

**WHEREAS**, under Executive Order No. 147, face coverings are required in many types of businesses, but businesses have the discretion to accommodate people who cannot wear face coverings by serving them at curbside, using home delivery, or using other means to protect against the spread of COVID-19; and

**WHEREAS**, all people over the age of two (2) in North Carolina should use a face covering to reduce the spread of COVID-19, but some populations may experience increased anxiety and fear of bias and being profiled if wearing face coverings in public spaces; and

**WHEREAS**, if someone is the target of ethnic or racial intimidation as the result of adhering to the face covering provision or as a result of the pandemic, they are encouraged to report the matter to law enforcement or another government entity.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA** that the City of Brevard endorses the provisions of Executive Order No. 147:

#### **Section 3.5 Face Coverings:**

- A. **Definitions:** "**Face Covering**" means a covering of the nose and mouth that is secured to the head with ties, strips, or loops over the ears or is simply wrapped around the lower 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.

“**Surgical Mask**” means American Society for Testing and Materials (“ASTM”) Level 1, 2 or 3 approved procedural and surgical masks. An N95 respirator approved by the National Institute for Occupational Society and Health (“NIOSH”) (or respirator from another country allowed by the Occupational Safety & Health Administration, the Food & Drug Administration or the CDC) is not recommended for general public use or use in public settings, as it should be reserved for healthcare providers and other medical first responders in a health care setting. However, if worn, these respirators would meet both the Face Covering and Surgical Mask of this Executive Order. A face shield that covers the nose and mouth also meets the Face Covering requirements of this Executive Order.

**B. Where Face Coverings Are Required.** People are required to wear Face Coverings in the following settings, whether they are inside or outside, unless an exception applies.

1. **In Retail Businesses.** Retail Businesses must have all workers wear Face Coverings when they are or may be within six (6) feet of another person. In addition, Retail Businesses must have all customers wear Face Coverings when they are inside the establishment and may be within six (6) feet of another person, unless the customer states that an exception applies.
2. **In Restaurants.** Restaurants must have all workers wear Face Coverings when they are or may be within six (6) feet of another person. In addition, restaurants must have all customers wear Face Coverings when not at their table, unless the customer states that an exception applies.
3. **In Personal Care, Grooming, and Tattoo Businesses.** Personal Care, Grooming, and Tattoo Businesses must have workers wear Face Coverings when they are or may be within six (6) feet of another person. In addition, the business must have all customers wear Face Coverings when they are inside the establishment and may be within six (6) feet of another person, unless the customer states that an exception applies. Customers may take off their Face Coverings if they are receiving a facial treatment, shave, or other services on a part of the head which the Face Covering covers or by which the Face Covering is secured.
4. **In Child Care Facilities, Day Camps, and Overnight Camps.** Child care facilities, day camps, and overnight camps must have workers, all other adults, and children eleven (11) years or older on site wear Face Coverings when they are or may be within six (6) feet of another person.
5. **In State Government.** State Government agencies headed by members of the Governor’s Cabinet must have their on-site workers wear Face Coverings when they are or may be within six (6) feet of another person. Public-facing operations of state government agencies under the jurisdiction of the Governor must also follow the requirements for Retail Businesses established by this Executive Order.

All Other state and local government agencies are strongly encouraged to adopt similar policies that require Face Coverings.

6. **In Transportation.** All workers and riders on public or private transportation regulated by the State of North Carolina, as well as all people in North Carolina airports, bus and train stations and stoops, must wear Face Coverings when they are or may be within six (6) feet of another person. This provision does not apply to people traveling alone with household members or friends in their personal vehicles, but does apply to ride-shares, cabs, vans, and shuttles, even if the vehicles are privately owned.

Notwithstanding the foregoing, no customer will be removed from or denied entry to public transportation for failure to wear a Face Covering.

7. **In Certain High-Density Occupational Settings Where Social Distancing is Difficult.** Social distancing is inherently difficult where multiple workers are together in manufacturing settings, at construction sites, and in migrant farm, or other farm, and agricultural settings. Therefore, in businesses or operations within North American Industry Classification System (NAICS) sectors 311 to 339 (manufacturing), 236 to 238 (construction), and 111, 112, 1151, and 1152 (agriculture), all workers must wear Face Coverings when they are or may be within six (6) feet of another person.

8. **In Meat or Poultry Processing Plants.** All workers in any meat or poultry processing plant, packing plant, or slaughterhouse must wear Face Coverings when they are or may be within six (6) feet of another person, and those Face Coverings must be Surgical Masks, as long as Surgical Mask supplies are available.

9. **Long Term Care Facilities.** All workers in Long Term Care ("LTC") Facilities, including skilled nursing facilities ("SNF"), adult care homes ("ACH"), family care homes ("FCH"), mental health group homes, and intermediate care facilities for individuals with intellectual disabilities ("ICF-IID"), must wear Face Coverings while in the facility, and those Face Coverings must be Surgical Masks, as long as Surgical Mask supplies are available.

10. **Other Health Care Settings.** Health Care facilities other than LTC facilities must follow the Face Covering requirements in the CDC Infection Control Guidance for Healthcare Professionals about Coronavirus (COVID-19).

C. **Exceptions.** This Executive Order does not require Face Coverings for – and a Face Covering does not need to be worn by – a worker, customer, or patron who:

1. 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);
2. Is under eleven (11) years of age;
3. Is actively eating or drinking;
4. Is strenuously exercising;
5. Is seeking to communicate with someone who is hearing-impaired in a way that requires the mouth to be visible;
6. Is giving a speech for a broadcast or to an audience;
7. Is working at home or is in a personal vehicle;
8. Is temporarily removing his or her Face Covering to secure government or medical services or for identification purposes;

9. Would be at risk from wearing a Face Covering at work, as determined by local, state, or federal regulations or workplace safety guidelines;
10. Has found that his or her Face Covering is impeding visibility to operate equipment or a vehicle; or
11. 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.

D. **Application of Exceptions.** Under this Executive Order, all North Carolinians will be on the honor system about whether or not there is a reason why they cannot wear a Face Covering. Everyone in this state is asked to tell the truth and – if they are healthy and able to wear a mask – to wear a Face Covering so that they do not put other people at risk of serious illness or death.

E. **How Businesses May Accommodate Exceptions.** If a customer states that an exception applies, a business may choose to offer curbside service, provide home delivery, or use some other reasonable measure to deliver its good or services.

F. **Enforcement of Face Covering Requirements.**

1. Citations under this Section shall be written only to businesses or organizations that fail to enforce the requirement to wear Face Coverings. Operators of businesses or organizations are entitled to rely on their customers or patrons' statements about whether or not they are excepted from the Face Covering requirements, and businesses and organizations do not violate this Executive Order if they rely on such statements.
2. Law enforcement personnel are not authorized to criminally enforce the Face Covering requirements of this Executive Order against individual workers, customers, or patrons.
3. However, if a business or organization does not allow entry to a worker, customer, or patron because that person refuses to wear a Face Covering, and if that worker, customer, or patron enters the premises or refuses to leave the premises, law enforcement personnel may enforce the trespassing laws and any other laws (other than N.C. Gen. Stat. § 14-288.20A) that the worker, customer, or patron may violate.

Section 15(A) of Executive Order No. 141 is amended to read:

- A. Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the provisions of this Executive Order shall be enforced by state and local law enforcement officers. Enforcement of Section 3.5 shall be limited as stated in that Section. Law enforcement and other public safety and emergency management personnel are strongly encouraged to educate and encourage voluntary compliance with all the provisions of this Executive Order.

Section I(4) of Executive Order No. 141 is amended to read, "Face Covering' is defined in Section 3.5(A)."

Section 6(A) of Executive Order No. 141 is amended to read as follows:

A. **Prohibition.** To control the spread of COVID-19 and protect lives during the State of Emergency, Section 3.5 and this Section list restrictions on the operations of business establishments and other places to or from which people may travel or at which they may congregate. Businesses or operations within the scope of Section 3.5 or this Section are prohibited from operating unless they follow any applicable restrictions stated in Section 3.5 and this Section.

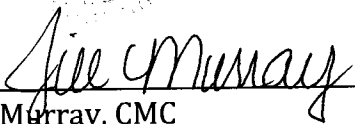
Sections 6(C)(2)(c), 6(D)(2)(c), and 6(D)(3) of Executive Order No. 141 are removed, since the substance of those provisions has been replaced with new Section 3.5 above.

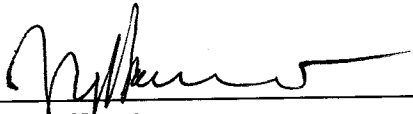
This Resolution shall become effective upon its adoption and approval.

Adopted and approved this 29<sup>th</sup> of June 2020.



ATTEST:

  
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Jill Murray, CMC  
City Clerk

  
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Jimmy Harris  
Mayor