



**STATE OF EMERGENCY DECLARATION  
OF THE TOWN OF BOONE**

**August 6, 2021**

**WHEREAS**, the novel coronavirus SARS-CoV-2 (hereinafter, “COVID-19” or “coronavirus”) has been declared a pandemic by the World Health Organization; the Governor of North Carolina has declared a State of Emergency and imposed restrictions as delineated in certain Executive Orders; and cases of COVID-19 have been confirmed within Watauga County; and

**WHEREAS**, Watauga County and the Town of Boone previously issued State of Emergency Declarations on grounds that there was and continues to be an imminent threat of, or existing conditions have caused or will cause, widespread or severe damage, injury, or loss of life or property, and that a declaration of emergency is necessary in order to more effectively protect the lives and property of people within the County and the Town of Boone; and

**WHEREAS**, the Town of Boone issued amendments to its State of Emergency Declaration on May 26, 2020 and June 18, 2020 which, among other things, required the wearing of face coverings in establishments frequented by the public; and

**WHEREAS**, the foregoing State of Emergency orders were repealed on May 18, 2021, due to much improved transmission rates and trends existing at that time, and substantial success with respect to federal and state vaccination efforts, among other considerations; and

**WHEREAS**, beginning several months ago, the “Delta Variant” of COVID-19 began spreading quickly across the United States;

**WHEREAS**, as of this date, North Carolina's and Watauga County's daily case counts and hospitalizations for COVID-19 are quickly increasing due to the Delta Variant, which spreads at least twice as easily as prior variants; and

**WHEREAS**, there has recently been a significant rise in the number of confirmed COVID-19 cases in Watauga County, which is now considered to have “substantial” transmission, and even more in adjacent counties, including Ashe, Wilkes and Burke Counties, which have “high transmission”; and

**WHEREAS**, the risk of COVID-19 transmission remains high, particularly with regard to indoor settings with an increased likelihood of close contact, and has substantially increased as a result of the spread of the delta variant of the COVID-19 coronavirus; and

**WHEREAS**, evidence cited by the federal Centers for Disease Control and Prevention (CDC) indicates that a significant portion of individuals with the coronavirus are asymptomatic, and that pre-symptomatic persons can transmit the virus to others before showing symptoms; and

**WHEREAS**, evidence indicates that masks and cloth face coverings are effective to reduce airborne transmission of the coronavirus, and the CDC has issued guidance recommending the wearing of face coverings, including for vaccinated persons, in indoor settings in locales with “substantial” or “high” transmission; and

**WHEREAS**, the Town of Boone is a destination for university students, travelers and visitors from all over North Carolina and the United States, including from states with much higher per capita rates of COVID-19 infection than the State of North Carolina or Watauga County; and

**WHEREAS**, Appalachian State University (“ASU”) is located within the Town of Boone and will formally commence its 2021-2022 academic year on August 16, 2021, with a majority of instruction planned to be in-person causing a large influx of students within Boone and Watauga County; and

**WHEREAS**, in response to rising cases and COVID-19 transmission rates, ASU has mandated face-coverings in all indoor campus locations regardless of vaccination status and will require students, faculty, and staff who are not vaccinated to participate in randomized COVID-19 testing throughout the academic year; and

**WHEREAS**, in light of the current circumstances of the COVID-19 pandemic, the Boone Town Council hereby determines that there is an imminent threat of, or existing conditions have caused or will cause, widespread or severe damage, injury, or loss of life or property, and that a declaration of emergency is necessary in order to more effectively protect the lives and property of people within the Town of Boone; and

**WHEREAS**, N.C. Gen. Stat. §166A-19.31(b) and Town Code §101.02 authorize the Boone Town Council or the Mayor of Boone to prohibit and restrict the movement of people in public places; to place prohibitions and restrictions on the operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate; and to regulate or prohibit other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency;

**NOW, THEREFORE**, pursuant to the authority vested in the Boone Town Council under N.C.G.S. §166A-19.22, N.C.G.S. §166A-19.31, and Chapter 101 of the Town of Boone Code of Ordinances, the Boone Town Council declares the following:

**Section 1.** A State of Emergency is hereby declared in the town limits of the Town of Boone for the reasons specified above.

**Section 2.** Based upon available information including but not limited to that set forth above, the Boone Town Council finds and declares that it is in the best interests of Boone’s residents, workers, and visitors that the following restrictions shall apply in the Town of Boone corporate limits:

- (a) While indoors in any establishment open to the public and in an area that is open to the general public, all customers, employees, and any other occupants or users of such area shall wear a Face Covering. While wearing a face covering, social distance (6’) shall still be maintained so far as possible.

However, this provision requiring the wearing of a Face Covering does not apply to the following persons or in the following situations:



- i. to those people who cannot wear a Face Covering due to a medical or behavioral condition, including but not limited to anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the mask without assistance;
- ii. to children who are two (2) years of age or younger;
- iii. to a customer dining in a restaurant, while that customer is sitting at their table;
- iv. when a person is complying with directions issued by a law enforcement officer as provided at Session Law 2020-3 s. 4.3.(a)) (amending G.S. § 14-12.11(c)).

(b) DEFINITIONS. For purposes of the foregoing provisions, the following definitions apply:

- i. "Establishment open to the public" includes portions of any place of business (including but not limited to Retail Businesses, service businesses, reception areas of professional offices, and restaurants), Town office, non-profit office, or other place where members of the general public are permitted to and do enter to obtain goods, services, information or assistance. "Establishment open to the public" shall not be deemed to include County or State properties.
- ii. "Retail Business" means any business in which customers enter a space to purchase goods or services, including but not limited to grocery stores, convenience stores, large-format retail stores, pharmacies, banks, ABC stores, hardware stores, and vehicle dealerships."
- iii. "Face Covering" means a covering of the nose and mouth by wearing a covering or mask for the purpose of ensuring the physical health or safety of the wearer or others. See Session Law 2020-3 s. 4.3.(a)) (amending G.S. § 14-12.11). A face covering can be secured to the head with ties or straps or simply wrapped around the lower face. It can be made of a variety of materials, such as cotton, silk, or linen. A cloth face covering may be factory-made or sewn by hand or can be improvised from household items such as scarfs, T-shirts, sweatshirts, or towels. Acceptable, reusable face covering options for the general public include bandanas, neck gaiters, homemade face coverings, scarves, or tightly woven fabric such as cotton t-shirts and some types of towels.

(c) PENALTY: A violation of this Section 2 shall constitute a class 2 misdemeanor as provided at G.S. §166A-19.31(h); *provided, however*, that law enforcement officers shall first educate the offender as to the requirements set forth herein; upon a subsequent violation may issue a warning; and only in the event of repeat violations manifesting willful flouting or circumvention of this Declaration issue a criminal citation for violation of this Section; *and further provided*, that no criminal citation shall be issued for a violation of this Section until on or after 5:00 p.m. on August 31, 2021, so that residents, workers and visitors may be educated as to the requirements of this Amendment.

**Section 3.** Every business in the Town of Boone is and remains free to adopt such additional COVID-19-protective provisions for its staff and patrons as such business may see fit. The Boone Police Department will support such businesses upon request by appropriate enforcement of the state's trespassing laws.

**Section 4.** The restrictions set forth in this Amendment shall be effective within the corporate limits of the Town of Boone beginning on Tuesday, August 10, 2021 at 5:00 p.m. and shall remain in effect until further notice.

**Section 5.** This declaration shall be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; filed with Town Clerk; distributed to others as necessary to ensure proper implementation of this declaration; and otherwise distributed as specified at N.C.G.S. §166A-19.31(d).

**DECLARED** this the 6<sup>th</sup> day of August, 2021.

*Rennie Brantz*

Rennie Brantz, Mayor

**ATTEST:**

*Nicole Harmon*

Nicole Harmon, Town Clerk

