

State of North Carolina

ROY COOPER
GOVERNOR

May 14, 2021

EXECUTIVE ORDER NO. 215

LIFTING COVID-19 RESTRICTIONS TO REFLECT NEW PUBLIC HEALTH RECOMMENDATIONS

WHEREAS, on March 10, 2020, the undersigned issued Exec. Order No. 116, 34 N.C. Reg. 1744-1749 (April 1, 2020), which declared a State of Emergency to coordinate the state's response and protective actions to address the Coronavirus Disease 2019 ("COVID-19") public health emergency and provide for the health, safety, and welfare of residents and visitors located in North Carolina; and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States issued an emergency declaration for all states, tribes, territories, and the District of Columbia, retroactive to March 1, 2020, and the President declared that the COVID-19 pandemic in the United States constitutes a national emergency; and

WHEREAS, on March 25, 2020, the President approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, in responding to the COVID-19 pandemic, and for the purpose of protecting the health, safety, and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 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, and 209-212; and

WHEREAS, the undersigned has taken a science and data-driven approach to implementing public health measures to curb the spread of the virus and to advance the state's economy in a safe and effective way, which is in the best interests of all North Carolinians; and

Improvements in Key COVID-19 Metrics

WHEREAS, over recent months in North Carolina, due to the measures taken to date by the undersigned and due to the resilience and persistence of all North Carolinians, there have been improvements in the state's key COVID-19 metrics; and

WHEREAS, specifically, as of the date of this Executive Order, the state is experiencing lower rates of the percent of emergency department visits that are due to COVID-like illness, the number of COVID-19 daily diagnoses, the percent of total COVID-19 tests that are positive, and the number of COVID-19-associated hospitalizations; and

WHEREAS, these improvements are occurring across North Carolina communities, as evidenced by the fact that between April 25, 2021 and May 8, 2021, no counties in the state are rated to have a “critical” rate of COVID-19 community spread, according to the County Alert System developed by the North Carolina Department of Health and Human Services (“NCDHHS”), which evaluates a county’s COVID-19 case counts, percent positives, and hospital occupancy; and

Progress in COVID-19 Vaccination

WHEREAS, COVID-19 vaccines are now widely available at no cost to all eligible North Carolinians who wish to receive one, and all eligible North Carolinians are encouraged to get vaccinated; and

WHEREAS, the state has mounted a robust vaccination effort to distribute the state’s allocated supply of COVID-19 vaccines authorized by the Food and Drug Administration (“FDA”) to all people living in or spending significant time in North Carolina; and

WHEREAS, North Carolinians have made great progress in getting vaccinated, and every day, more North Carolinians are protected from this deadly disease; and

WHEREAS, as of the date of this Executive Order, forty-six percent (46%) of the state’s population over age eighteen (18) is fully vaccinated, and fifty-one percent (51%) of the state’s population over age eighteen (18) is partially vaccinated; and

WHEREAS, as of the date of this Executive Order, over seventy-five percent (75%) of the state’s population age sixty-five (65) and older is fully vaccinated, and over seventy-nine percent (79%) of the state’s population age sixty-five (65) and older is partially vaccinated; and

New Public Health Guidance for Fully Vaccinated People

WHEREAS, over the course of the pandemic, North Carolina’s public health experts have gained enhanced knowledge of the COVID-19 virus, including a better understanding of what settings and activities pose the greatest risk of transmitting the virus, and what mitigation strategies are most effective to curb spread; and

WHEREAS, on May 13, 2021, the U.S. Centers for Disease Control and Prevention (“CDC”) issued new Interim Public Health Recommendations for Fully Vaccinated People; and

WHEREAS, the new CDC recommendations advise that currently authorized vaccines in the United States are highly effective at protecting vaccinated people against symptomatic and severe COVID-19; and

WHEREAS, the new CDC recommendations advise that a growing body of evidence suggests that fully vaccinated people are less likely to transmit COVID-19 to others; and

WHEREAS, based on this evidence, the new CDC recommendations advise that “[i]ndoor and outdoor activities pose minimal risk to fully vaccinated people,” and that in most settings, “fully vaccinated people can resume activities without wearing face coverings or physically distancing”; and

WHEREAS, the new CDC guidance indicates that the Face Covering requirement and social distancing requirements can be lifted for fully vaccinated people; and

WHEREAS, more than half of all North Carolinians have now received one vaccination dose, and North Carolina is on track to have more and more people be fully vaccinated and at low risk from the disease; and

WHEREAS, given current obstacles, distinguishing between vaccinated and unvaccinated North Carolinians raises enforcement concerns for law enforcement, businesses, and employers; and

WHEREAS, in the totality of these circumstances, the undersigned has determined that at this time the Face Covering requirement should be lifted in most settings, and the capacity restrictions, and social distancing requirements should be lifted for all settings; and

Continuing Dangers of COVID-19

WHEREAS, despite the recent improving trends, COVID-19 is a deadly and dangerous disease; and

WHEREAS, more than nine hundred eighty-nine thousand (989,000) people in North Carolina have had COVID-19, and more than twelve thousand eight hundred (12,800) people in North Carolina have died from the disease; and

WHEREAS, the new CDC recommendations issued on May 13, 2021 confirm that unvaccinated people put themselves at great risk if they do not wear Face Coverings in recommended settings and do not socially distance; and

WHEREAS, for these reasons, the COVID-19 State of Emergency must continue, and this Executive Order modifies only Face Covering requirements, capacity restrictions, and social distancing requirements; and

WHEREAS, it remains critical that North Carolinians exercise personal responsibility to protect themselves and their friends and neighbors from the spread of COVID-19, and the undersigned and the Secretary of the Department of Health and Human Services continue to identify Face Coverings, social distancing, and washing hands as best practices; and

WHEREAS, although a majority of adult North Carolinians have received at least one vaccination dose, vaccination efforts are just beginning for children; and

WHEREAS, children age twelve (12) to fifteen (15) have only recently been allowed to receive a COVID-19 vaccine from one approved manufacturer, and children age twelve (12) and younger have not yet been approved to receive a COVID-19 vaccine; and

WHEREAS, it is necessary to continue some COVID-19 requirements in schools, child care, and day or overnight camps, since for the next few weeks, almost all children will be unvaccinated and able to spread COVID-19; and

WHEREAS, the new CDC recommendations also suggest that in some settings where people congregate, including transportation and health care, people should continue to wear Face Coverings and socially distance; and

WHEREAS, if the state's COVID-19 case rate increases, if the state's vaccination rate slows, or if new evidence arises regarding the risks of COVID-19 and its variants, it may be necessary to reevaluate whether additional restrictions are necessary to reduce the risk of death and serious illness from COVID-19; and

Statutory Authority and Determinations

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate Gubernatorial vested authority under the Emergency Management Act and to provide for the sub-delegation of that authority; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.23 in conjunction with N.C. Gen. Stat. §§ 75-37 and 75-38, the undersigned may issue a declaration that shall trigger the prohibitions

against excessive pricing during states of disaster, states of emergency or abnormal market disruptions; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the undersigned may take such action and give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of the Emergency Management Act and with the orders, rules, and regulations made thereunder; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(i), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because not all local authorities have enacted such appropriate ordinances or issued such appropriate declarations restricting the operation of businesses and limiting person-to-person contact, thus needed control cannot be imposed locally; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(ii), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because some but not all local authorities have taken implementing steps under such ordinances or declarations, if enacted or declared, in order to effectuate control over the emergency that has arisen; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(iii), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because the area in which the emergency exists spreads across local jurisdictional boundaries and the legal control measures of the jurisdictions are conflicting or uncoordinated to the extent that efforts to protect life and property are, or unquestionably will be, severely hampered; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(iv), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection of lives and property of North Carolinians because the scale of the emergency is so great that it exceeds the capability of local authorities to cope with it; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(1) authorizes the undersigned to prohibit and restrict the movement of people in public places; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(1)(d) authorizes the undersigned to control the movement of persons within the emergency area; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(2) authorizes the undersigned to prohibit and restrict the operation of offices, business establishments, and other places to and from which people may travel or at which they may congregate; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(5) authorizes the undersigned to prohibit and restrict other activities or conditions, the control of which may be reasonably necessary to maintain order and protect lives or property during a state of emergency; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(1), when the undersigned imposes the prohibitions and restrictions enumerated in N.C. Gen. Stat. § 166A-19.31(b), the undersigned may amend or rescind the prohibitions and restrictions imposed by local authorities.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, and for the reasons and pursuant to the authority set forth above, **IT IS ORDERED**:

Section 1. Introduction.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

1.1. Definitions.

- a. “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. Face Coverings are most effective when they fit snugly against a person’s face and have two (2) or more layers. This can be achieved by wearing a cloth Face Covering with two or more layers or by wearing one disposable mask underneath a cloth mask. A cloth 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.

Based on recommendations from the CDC, face shields do not meet the requirements for Face Coverings.

- b. “Guest” means any attendee, customer, guest, member, patron, spectator, or other person lawfully on the property of another that does not own the property or work at the property.
- c. “Surgical Mask” means American Society for Testing and Materials (“ASTM”) Level 1, 2, or 3 approved procedural and surgical masks.

1.2. 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.

1.3. Structure of This Executive Order.

This Executive Order fully lifts the capacity limitations and social distancing requirements on businesses in Executive Order No. 209, and lifts the indoor Face Covering requirement on most businesses and operations. To control the spread of COVID-19 and protect lives during the State of Emergency, this Executive Order lists restrictions on the operations of certain 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 Sections 2 and 3 are prohibited from operating unless they follow all applicable restrictions stated in these Sections.

Section 2. Face Coverings.

In public school units, as defined by N.C. Gen. Stat § 115C- 5(7a), and non-public schools covered by Article 39 of Chapter 115C of the General Statutes, the StrongSchoolsNC Public Health Toolkit (K-12) (“Toolkit”) sets any Face Covering requirements. As of the date of this Executive Order, the Toolkit currently requires Face Coverings indoors. Any future changes to the Face Covering requirement in schools will be issued in the Toolkit.

In addition, Face Coverings are also required in the settings listed in Section 3 of this Executive Order below. In all settings where Face Coverings apply, the exceptions listed in Sections 2.3 to 2.5 of Executive Order No. 209 apply. Otherwise, the Face Covering requirements in Executive Order No. 209 are rescinded.

Section 3. Restrictions on Certain Businesses and Operations.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

3.1. Child Care Facilities.

- a. Child Care Facilities May Open and May Serve All Children. Child care facilities may open or reopen, and they may serve all children in North Carolina. All references to “covered children” in Executive Order Nos. 130 and 138 shall refer to all children.
- b. Additional Health and Safety Requirements. Operators of child care facilities must follow all applicable NCDHHS guidelines.
- c. Relationship to Other Executive Orders. Subsections 3.3(a) and (b) above completely replace Subsections 2(C) and 2(D) of Executive Order No. 130. Subsections 2(A)-(B) and 2(E)-(H) of Executive Order No. 130 and Section 3 of Executive Order No. 139 shall continue in effect as specified in Executive Order Nos. 152, 177, 193, 211, and any subsequent executive orders.

3.2. Children’s Day or Overnight Camps.

- a. Requirements. Operators of day camps and overnight camps must follow all applicable NCDHHS guidelines.

3.3. Health Care Settings.

- a. Infection Prevention in Health Care Facilities. All residents, workers, and visitors in health care settings including hospitals, outpatient healthcare settings, Long Term Care (“LTC”) Facilities, skilled nursing facilities (“SNF”), and intermediate care facilities for individuals with intellectual disabilities (“ICF/IID”), must follow the requirements in the CDC Healthcare Infection and Prevention Control Recommendations in Response to COVID-19 Vaccination, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-after-vaccination.html>.
- b. Other Requirements. Additional requirements in health care settings can be found in Executive Order Nos. 130 and 139 and in the Secretarial Orders issued under Executive Order Nos. 152, 165, 177, 193, 211, and any subsequent extensions thereof.

3.4. 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 or stops, must wear Face Coverings indoors at all times, unless an exception applies. This provision does not apply to people traveling in their personal vehicles, alone or with family or friends, but does apply to ride-shares, cabs, vans, and shuttles, even if the vehicles are privately owned. Guests may be removed from or denied entry to public transportation if they refuse to wear a Face Covering.

3.5 State and Local Correctional and Detention Facilities and Homeless Service Providers.

All persons indoors on-premises at state and local correctional and detention facilities must wear Face Coverings at all times, unless an exception applies. All workers of homeless service providers and clients of homeless service providers must wear Face Coverings indoors any time they are not in their room or on their bed mat in shared sleeping areas, unless an exception applies. A Face Covering is not required to be worn by an individual when sleeping alone on-site at a correctional or detention facility or a facility serving the homeless.

3.6 Private Businesses May Require Face Coverings.

Nothing in this Executive Order is intended to prohibit or discourage private businesses not covered by Sections 2 or 3 herein from requiring Face Coverings for their employees or Guests, unless an exception applies for that individual, or to prevent such businesses from enforcing any existing rights under the law to prohibit Guests from entering without Face Coverings.

Section 4. Recommendations for Large Venues.

It is strongly recommended that all individuals continue to wear Face Coverings in all large indoor seating facilities with a seating capacity of over five thousand (5,000) seats, unless an exception applies.

Section 5. Miscellaneous Provisions.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

5.1. **Statewide Standing Order for COVID-19 Testing.** In order to further protect the public health by providing greater access to COVID-19 testing, the undersigned orders the State Health Director, in addition to and in accordance with her powers set out in N.C. Gen. Stat. Chapter 130A, to issue any statewide standing order needed in her medical judgment that would allow individuals who meet NCDHHS criteria for testing to access and undergo testing for COVID-19, subject to the terms of the standing order. This standing order may continue for the duration of the State of Emergency.

5.2. **School and Health Officials to Continue Efforts.** NCDHHS, the North Carolina Department of Public Instruction, and the North Carolina State Board of Education are directed to continue to work together during this State of Emergency to maintain and implement measures to provide for the health, nutrition, safety, educational needs, and well-being of children being taught by remote learning.

5.3. Effect on Local Emergency Management Orders.

- a. **Most of the Restrictions in This Executive Order Are Minimum Requirements, And Local Governments Can Impose Greater Restrictions.** The undersigned recognizes that the impact of COVID-19 has been and will likely continue to be different in different parts of North Carolina. Over the course of the COVID-19 emergency in North Carolina, COVID-19 outbreaks have occurred, at different times, in urban and rural areas; in coastal areas, the piedmont, and the mountains; and in a variety of employment and living settings. As such, the undersigned acknowledges that counties and cities may deem it necessary to 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 this Executive Order. To that end, nothing herein, except where specifically stated below in this Subsection 5.3, 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.
- b. **Local Restrictions Cannot Restrict State or Federal Government Operations.** Notwithstanding Subsection 5.3(a) above, no county or city ordinance or declaration shall have the effect of restricting or prohibiting governmental operations of the State or the United States.
- c. **Local Restrictions Cannot Prevent COVID-19 Testing.** To ensure that COVID-19 testing is available to the maximum extent possible, and to create certainty and uniformity across the state for businesses and operations that are providing this valuable testing, the undersigned specifically prohibits all local prohibitions and restrictions that would prevent or restrict businesses or operations from providing COVID-19 testing or would prevent or restrict businesses or operations from advertising COVID-19 testing services that they are providing to the public. This

preemption includes, but is not limited to, building permits, signage restrictions, and zoning requirements. However, the preemption provided by this Section is available only to COVID-19 testing sites that are operated in accordance with state and federal law and in cooperation with the NCDHHS or a local public health department.

- d. Local Restrictions Cannot Prevent COVID-19 Vaccine Administration. To ensure that COVID-19 vaccines are available to the maximum extent possible, and to create certainty and uniformity across the state for businesses and operations that are providing this valuable service, the undersigned specifically prohibits all local prohibitions and restrictions that would prevent or restrict businesses or operations from providing COVID-19 vaccines or would prevent or restrict businesses or operations from advertising COVID-19 vaccines that they are providing to the public. This preemption includes, but is not limited to, building permits, signage restrictions and zoning requirements. However, the preemption provided by this Section is available only to COVID-19 vaccination sites that are operated in accordance with state and federal law and in cooperation with the NCDHHS or a local public health department.

5.4. Previous Executive Orders. Except for the exceptions to Sections 2.3 to 2.5 of Executive Order No. 209, which remain in place, this Executive Order amends, restates, and replaces Executive Order Nos. 141, 153, 162, 163, 169, 170, 176, 180, 181, 188, 189, 195, 204, and 209 in full. The State of Emergency established in Executive Order No. 116 remains in effect, and no other Executive Orders are modified or rescinded by this Executive Order except as expressly stated herein.

Section 6. Extension of Price Gouging Period.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

Pursuant to N.C. Gen. Stat. § 166A-19.23, the undersigned extends the prohibition against excessive pricing, as provided in N.C. Gen. Stat. §§ 75-37 and 75-38, from the issuance of Executive Order No. 116 through June 11, 2021 at 5:00 pm.

The undersigned further hereby encourages the North Carolina Attorney General to use all resources available to monitor reports of abusive trade practices towards consumers and make readily available opportunities to report to the public any price gouging and unfair or deceptive trade practices under Chapter 75 of the North Carolina General Statutes.

Section 7. No Private Right of Action.

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any emergency management worker (as defined in N.C. Gen. Stat. § 166A-19.60) or any other person.

Section 8. Savings Clause.

If any provision of this Executive Order or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Section 9. Distribution.

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 10. Enforcement.

- 10.1. 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.
- 10.2. A violation of this Executive Order may be subject to prosecution pursuant to N.C. Gen. Stat. § 166A-19.30(d), and is punishable as a Class 2 misdemeanor in accordance with N.C. Gen. Stat. § 14-288.20A. Local governments are specifically authorized and encouraged to adopt ordinances that provide law enforcement officials with flexibility to use civil, rather than criminal, penalties to enforce violations of this Executive Order.
- 10.3. Nothing in this Executive Order shall be construed to preempt or overrule a court order regarding an individual's conduct (e.g., a Domestic Violence Protection Order or similar orders limiting an individual's access to a particular place).

Section 11. Effective Date.


This Executive Order is effective May 14, 2021, at 1:30 pm. This Executive Order shall remain in effect through June 11, 2021, at 5:00 pm, unless repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 14th day of May in the year of our Lord two thousand and twenty-one.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

