

THE CITY OF WAUKEE, IOWA

PROCLAMATION

**EMERGENCY AND PUBLIC DANGER RELATED TO
CORONAVIRUS/COVID-19**

IN THE NAME AND BY THE AUTHORITY OF THE CITY OF WAUKEE, IOWA

WHEREAS, the Governor of Iowa has issued multiple proclamations, most recently on August 27, 2020, determining that a state of emergency or public danger continues to exist and imposing restrictions on businesses and the public as more particularly set forth therein; and

WHEREAS, the White House Coronavirus Task Force, as of August 30, 2020, continued to list Iowa in the task force-defined "red zone" as Iowa continues to fall within the top five states for highest new cases and highest positivity rates in the US; and

WHEREAS, Waukee accounts for approximately 25 percent of the Dallas County population, in which new positive cases of the virus continue to be diagnosed at a high rate, putting increased strains on the health care system and Emergency Services, and increasing the risk of harm to residents of the City; and

WHEREAS, many businesses have reopened; some large events and gatherings have recommenced; and schools have reopened, allowing some semblance of normalcy but at the same time increasing the spread of the virus; and

WHEREAS, the U.S. Chamber of Commerce Small Business Coronavirus Impact Poll, as of July 29, 2020, noted 70 percent of small businesses are concerned about financial hardship due to prolonged closures and 58 percent worry about having to permanently close; and the National Federation of Independent Business found in July that 23 percent of independent businesses expect to be out of business within six months unless economic or virus conditions change; and

WHEREAS, the CDC and the Iowa Board of Medicine have determined that face coverings are a critical tool in the fight against COVID-19 that could reduce the spread of the virus, particularly when used universally within communities and the Iowa Board of Medicine issued a face mask advisory on August 24, 2020, noting that masks are most likely to reduce the spread of COVID-19 when they are widely used by people in public settings; and

WHEREAS, the Governor Proclamation provides that businesses and gatherings ensure social distancing of employees, customers and attendees, increased hygiene practices, and

other public health measures to reduce the risk of transmission of COVID-19 consistent with the guidance of the Iowa Department of Public Health ("IDPH"); and

WHEREAS, the IDPH's reopening guidance advises that members of the public consider the use of cloth face coverings when social distancing is not possible because wearing face coverings in public places where social distancing measures are difficult (like grocery stores and pharmacies) can help slow the spread of COVID-19; and

WHEREAS, the Institute for Health Metrics and Evaluation at the University of Washington as of August 21, 2020 has projected that the US will reach nearly 310,000 deaths by December 1, 2020, but that if mask wearing in public increases to 95%, more than 69,000 lives could be saved; and

WHEREAS, a requirement that persons within the City of Waukee wear face coverings is essential to reducing the risk of transmission of COVID-19, and necessary to protect the health, welfare and safety of residents and visitors and accelerate local recovery efforts; and

WHEREAS, a requirement that persons wear face coverings is consistent with the Governor's proclamation and the guidance of the IDPH.

WHEREAS, Article III, Section 38A of the Iowa Constitution grants municipalities the power to determine their local affairs and government not inconsistent with the laws of the general assembly; and

WHEREAS, Chapter 364 of the Iowa Code reaffirms the constitutional grant of home rule authority to a municipality "to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the city or its residents, and improve the peace, safety, health, welfare and convenience of its residents"; and a "city may exercise its general powers subject only to limitations expressly imposed by a state or city law," and the exercise of a city power "is not inconsistent with a state law unless it is irreconcilable with the state law." Iowa Code section 364.2(2) and (3); and

WHEREAS, Iowa Code Section 372.14(2) and the City of Waukee Municipal Code Section 108.5 grant the Mayor powers in times of emergency or when public danger exists; and

NOW, THEREFORE, IN CONSIDERATION OF THE FORGOING AND OTHER VALID EMERGENT CONCERNS, I, COURTNEY CLARKE, MAYOR OF THE CITY OF WAUKEE, PROCLAIM THE FOLLOWING:

I determine that the state of emergency or public danger determined to exist in the Governor's proclamation of August 27, 2020 continues to exist and that the guidance

referenced herein from the CDC is appropriate and instructional and that the Governor's prohibitions and requirements are legal and binding.

A. Face Coverings. Consistent with the authority granted me by the Iowa Code and Waukee Municipal Code referenced above, I therefore direct, require and order that all persons in the City of Waukee shall wear a face covering such as a cloth mask, surgical mask, plastic shield or similar covering that covers their nose and mouth when in a public place in all of the following circumstances unless as excepted in subsection (2.c)below:

- a)
 - 1) When outside one's residence or dwelling place and unable to stay at least six (6) feet away from other persons;
 - 2) When inside any indoor public setting including, without restriction, all:
 - a. retail stores.
 - b. spas, hair salons, nail salons.
 - c. restaurants, bars, taverns.
 - d. pharmacies.
 - e. professional service offices.
 - f. doctors offices or waiting rooms.
 - g. and other accommodations.
 - 3) When in any other public settings that are not one's residence or dwelling place with persons who do not live in the same residence or dwelling place;
 - 4) When using public transportation or private car service (including taxis, ride share, or carpooling).
 - 5) For the purpose of this proclamation 'public setting' is defined as areas that are open to the general public, including members of a membership based business or organization. A public setting does not include area(s) of a facility, business, or organization in which the general public is not allowed provided social distancing is accomplished.
- b) No organization that is a public setting of any sort, including without limitation, a business that is open to the public, may provide service to a customer or allow a customer to enter its premises, unless the customer is wearing a face covering as required by this Proclamation, and such organizations must post signs at entrance(s) instructing customers of their legal obligation to wear a face covering while inside pursuant to this Proclamation.

- c) The provisions of this section shall not apply to the following persons:
- 1) Persons 2 years of age or younger;
 - 2) Any person who has trouble breathing, is currently on oxygen therapy or on a ventilator;
 - 3) Any unconscious or incapacitated person or any person who is otherwise unable to remove the face covering without assistance;
 - 4) Any person who has been told in writing by a medical, legal, or behavioral health professional not to wear face coverings when that writing is carried on the person not using an otherwise required face covering unless such inquiry is prohibited by Federal or State law;
 - 5) Any person traveling in a personal vehicle alone or with members of the same household;
 - 6) Any person who is alone or in the presence of only members of the same household;
 - 7) Any person seated at a food establishment when actually engaged in the process of eating or drinking;
 - 8) Any person actually obtaining a service that would require temporary removal of the persons face covering (e.g. dental, orthodontic or medical services);
 - 9) Any person for whom a face covering would be violative of a sincerely held religious belief or doctrine;
 - 10) When Federal or State law prohibits wearing a face covering or requires the removal of the face covering.
 - 11) Anyone actively engaged in a public safety role, including but not limited to law enforcement, firefighters, or emergency medical personnel, although a face covering should be worn if possible.
 - 12) A student or youth participating in co-curricular activities when participating according to the Iowa High School Athletic Association rules, rules of the school district, or organization for wearing face coverings.

B. Provision of Face Coverings. Given the evidence that demonstrates reduced risk of transmitting and contracting COVID-19 by use of face coverings, I hereby direct the City Administrator to procure and distribute face masks to members of the public not using face masks in the situations above described, utilizing city employees to disseminate such face coverings.

C. General. This Proclamation of emergency and public danger is part of an ongoing response of the City of Waukee to protect public health and safety and may be modified or superseded with more restrictive proclamations at any time as circumstances warrant and in all other respects and purposes, the prior amended Proclamation as hereby further amended continues in full force and effect.

With respect to the terms of Section (A), pursuant to Waukee Municipal Code Section 108.5(O), the public is advised that a violation this Mayoral Proclamation of emergency or of any rule or order issued pursuant thereto by the Mayor, law enforcement officer or emergency service personnel pursuant thereto, shall constitute a violation of that Section and shall be punishable as a municipal infraction as provided by Waukee Municipal Code Section 108.5(O)(5).

a) Violations

- 1) For any violation, an initial civil penalty of fifteen dollars (\$15.00) if paid within thirty (30) calendar days of the date of the violation. If payment is not made within such thirty (30) calendar days, said civil penalty shall be twenty dollars (\$20.00).
- 2) Payment of the above fine by mail to the city clerk shall be deemed paid as of the date of the postmark on the envelope thereof.
- 3) For purposes of this section, a civil penalty shall become delinquent if not paid within thirty (30) calendar days from the date of issuance of the violation notice.
- 4) The City reserves the right to pursue delinquent civil penalties through collections or the issuance of a municipal infraction.


b) Appeal

- 1) Within thirty (30) days of a violation a person may file with the City Clerk a written notice of appeal.
- 2) Upon appeal, a municipal infraction shall be issued pursuant to City of Waukee Code and applicable Iowa law.

Proclaimed this 14th day of September, 2020, and effected the 18th day of September, 2020, by the Authority vested in me by the Code of Iowa and the City of Waukee Municipal Code.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the City of Waukee to be affixed this September 14, 2020.



Courtney Clarke, Mayor