

Staff Report

**FACTORS TO CONSIDER IF IMPLEMENTING A CITYWIDE
FACE COVERING MANDATE**

August 11, 2020

BACKGROUND:

At the July 14, 2020 City Council Meeting, Council directed staff to develop a process to determine the appropriate time to implement a citywide face covering mandate. Such a process would include gathering information on the rate of positive COVID-19 cases and the community spread of the virus in Ames/Story County from local health sources including Mary Greeley Medical Center, McFarland Clinic, and Story County Public Health; monitoring guidance from the Iowa Department of Public Health, Story County Board of Health, and the CDC. Additionally, the CDC has developed five COVID-19 Pandemic Planning Scenarios that are designed to help inform public health officials in the areas of viral transmissibility, disease severity, and pre-symptomatic and asymptomatic contribution to disease transmission.

Following the analysis of the information collected, the factors listed below would be considered to warrant a city-wide face covering mandate:

- The Intensive Care Unit at Mary Greeley Medical Center is at capacity;
- The percentage of positive COVID-19 cases in Story County reach 10% (“red zone”) and continue rising;
- ISU and schools move to all virtual learning. Business reduce hours and/or close.
- The Governor’s Proclamation is amended to mandate face coverings in the State of Iowa

In the Governor’s current Proclamation, face coverings are encouraged. The Attorney General’s Office has issued an opinion stating that any local regulations requiring face coverings are preempted by the Governor’s proclamations, therefore, cities and counties do not have the authority to issue a face covering mandate since the Governor’s proclamation is in place. In response to this, the City Council supported the Mayor sending a letter to the Governor requesting she empower cities with the authority to implement public health mandates such as face coverings in public, when circumstances warrant doing so in our communities. To date, no such authority has been granted, but the City has continued moving forward with promoting the Cyclones Care campaign and 4 pillars of health: wear a face covering, social distance, wash hands, and stay home when ill. Council has also approved a measure requiring face coverings in City buildings and during some Parks and Recreation activities which took effect July 27, 2020.

ACTIONS TAKEN IN OTHER COMMUNITIES

Communities around the state have issued orders and proclamations pertaining to face coverings and social distancing. Information was collected from 6 communities who have taken some type of action adhering to or mandating public health guidance. A summary of the responses is outlined as follows and copies of the documents are attached to this Staff Report:

City	Action Taken	Effective Date
Ankeny	Mayor's Proclamation desiring individuals to comply with recommended practices that reduce virus spread including social distancing and use of face coverings. Encourages businesses to explore similar measures.	July 27, 2020
Coralville	Mayor's Proclamation desiring individuals and businesses to comply with recommended practices that reduce virus spread including social distancing and use of face coverings.	July 14, 2020
Des Moines	Mayor's Proclamation strongly encourages use of face coverings by all persons (specifics noted in proclamation), creation of a program to procure and distribute face coverings, continues limitations on number of people at indoor gatherings on public property or public right of way, limitations on number of people at specified outdoor events and permit application with required public health measures.	July 31, 2020 Amendment
Urbandale	City Council Resolution encouraging the observance of public health practices like social distancing and use of face coverings and sanitation supplies.	July 29, 2020
Dubuque	City Council approved an ordinance mandating face coverings to be worn indoors in public places and outdoors when one cannot stay at least six (6) feet away from others.	August 10, 2020
Iowa City	Mayor's Order mandating face coverings to be worn indoors in public places and outdoors when unable to stay at least six (6) feet away from others, and when using public transit or private car service. Businesses open to the public must post signs about face covering requirement. Exemptions for wearing a face covering are provided.	July 21, 2020
Muscatine	Mayor's Proclamation for city-wide face covering mandate for every person when in any indoor or outdoor public setting; exemptions provided.	July 6, 2020

In addition to the actions described above, the Story County Board of Health is currently in the process of drafting a letter containing recommended guidance for local government officials.

It's equally important to take into consideration the challenges of enforcing any of the measures described in this report. In most communities, the desire or expectation will not be enforced. Both Iowa City and Muscatine indicate that either a misdemeanor or municipal infraction would be cited to anyone in violation of the order. Iowa City further states that citation shall be a last resort to obtain compliance.

OPTIONS:

Should Council wish to seek additional ways of alerting the public to the seriousness of COVID-19 and the importance of practicing methods to mitigate the spread of the virus such as wearing face coverings, social distancing, washing hands, and staying home when ill, the following are options to consider:

1. Adopt a proclamation that places the expectation on people and businesses to adhere to CDC public health practices that reduce the virus spread, specifically wearing face coverings and social distancing of at least 6 feet.
2. Adopt a resolution that places the expectation on people and businesses to adhere to CDC public health practices that reduce the virus spread, specifically wearing face coverings and social distancing of at least 6 feet.
3. Continue current efforts with Cyclones Care messaging and the 4 pillars of health, and the face covering requirement in City buildings.
4. Adopt an ordiance mandating face coverings to be worn indoors in public places and outdoors when social distancing (at least 6 feet) cannot be achieved.

MEMO

Legal Department

To: Mayor Haila, Ames City Council

From: Mark O. Lambert, City Attorney

Date: August 7, 2020

Subject: Alternative legal theory about face-covering mandates.

At the July 14, 2020 Ames City Council meeting, I provided you with a memo analyzing the legality of local face-coverings mandates. In that memo, I advised that the Council should follow the Iowa Attorney General's informal opinion that it was not lawful for local governments to implement local face-covering mandates while the Governor's emergency proclamation regarding COVID-19 is in effect.

There is an alternative legal theory being discussed among municipal attorneys in Iowa, and I wanted to let you know about that. Just to be clear, my advice is still the same – the City should follow the Iowa Attorney General's informal opinion.

In a nutshell, the alternative theory goes like this:

1. The Iowa Attorney General's office got it wrong.
2. The Governor's current proclamation does not specifically address Personal Protective Equipment (PPEs) such as face coverings, for persons out in public. The proclamation does not explicitly prohibit cities from adopting face-covering mandates.
3. Since the Governor's proclamation is silent on face coverings, there is no conflict with the proclamation if local governments implement face-covering ordinances or proclamations. Normal home-rule authority legal analysis applies, which is that the City has the authority to regulate on any issue as long as it doesn't conflict with state law.
4. A local face-covering mandate may be implemented by ordinance, or by an emergency proclamation of the Mayor, per Iowa Code section

372.14(2) (“The mayor may...govern the city by proclamation upon making a determination that a time of emergency or public danger exists.”).

This legal theory differs from the Attorney General’s office point of view, which essentially says that the Public Health and Emergency Management chapters of the Iowa Code give the Governor total authority over a public health emergency, and that local governments can act only if the Governor delegates authority to them, which she has not done.

As I noted in my previous memo, the law on this matter is uncharted territory. Reasonable attorneys can disagree. I cannot say with certainty that this alternative theory is incorrect. I still believe the Attorney General’s informal opinion is correct. No one will really know until a court rules on this.

So far, Iowa City, Muscatine, and Dubuque are the only cities that we’re aware of that have issued face-covering mandates, but other cities apparently are considering it. There is some thinking that because the Governor has not threatened legal action against those cities, there will be no legal challenge by the State against local governments who adopt such mandates. However, perhaps the State just hasn’t decided to take legal action yet, or maybe the State won’t take action with just three cities implementing face-covering requirements, but it might if half-a-dozen cities do so. On the other hand, it might be a difficult situation politically for the Governor to take legal action against the cities over this issue. Also, there’s always the possibility that a citizen could file a lawsuit challenging a local face-covering requirement. And of course, arguments about whether the local mandate is lawful are quite likely to be brought up by someone who is fighting a citation received for violating the local ordinance/order.

I just wanted you to be aware that this legal theory is being considered, and acted upon, by some municipalities. If the Council should choose to follow the lead of some other Iowa cities and mandate face coverings, that is a

reasonably defensible position. However, I repeat that my advice is to follow the Attorney General's informal opinion, and that I think the AG's informal opinion is correct.

#



Proclamation

WHEREAS, countries around the globe have experienced the COVID-19 Corona Virus pandemic with over 16 million confirmed cases and 648,966 deaths; and

WHEREAS, the United States has over 4.1 million cases and 145,892 deaths; and

WHEREAS, Iowa has over 42,357 cases and 829 deaths; and

WHEREAS, Polk and County has over 9,080 cases and 191 deaths; and

WHEREAS, the number of COVID-19 cases continue to increase in our nation, state and counties placing our residents at risk for serious illness or death; and

WHEREAS, the World Health Organization has determined that wearing face shields or cloth face masks has proven to be one of the most effective means to curb the spread of the COVID-19 virus among persons in public settings; and

WHEREAS, it is critically important to protect the residents, visitors, students and employees in the City of Ankeny from the spread of the COVID-19; and

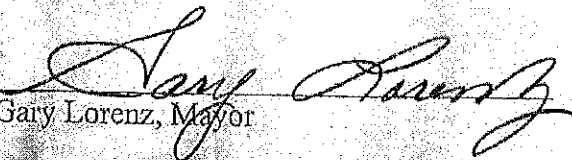
WHEREAS, the City of Ankeny desires that individuals in the City comply with recommended practices to reduce the virus spread including social distancing and the use of face shields or cloth face masks.


WHEREAS, the City of Ankeny encourages businesses throughout Ankeny to explore similar measures as a way to reduce the spread of COVID-19 and help keep businesses operational.

NOW, THEREFORE, I, GARY LORENZ, MAYOR OF THE CITY OF ANKENY, IOWA, DO HEREBY PROCLAIM:

That the City encourages everyone to social distance and wear face shields or cloth masks when they are in proximity of other persons both in public as well as private locations and that these practices continue until substantial progress in curbing the spread of the COVID-19 virus had been declared by public health officials.

DATED AND SIGNED THIS 27TH DAY OF JULY, 2020


Gary Lorenz, Mayor



**PROCLAMATION
CITY OF CORALVILLE
COVID-19 PREVENTION INITIATIVE**

WHEREAS, countries around the globe have experienced the COVID-19 Corona Virus pandemic with over 13.1 million confirmed cases and 573,000 deaths; and

WHEREAS, the United States has over 3.43 million cases and 138,000 deaths; and

WHEREAS, Iowa has over 35,836 cases and 757 deaths; and

WHEREAS, Johnson County has over 1,494 cases and 8 deaths; and

WHEREAS, the number of COVID-19 cases continue to increase in our nation, state and county placing our residents at risk for serious illness or death; and

WHEREAS, the World Health Organization has determined that wearing face shields or cloth face masks have proven to be one of the most effective means to curb the spread of the COVID-19 virus among persons in public settings; and


WHEREAS, it is critically important to protect the residents, visitors, students and employees in the City of Coralville from the spread of the COVID; and

WHEREAS, the City of Coralville and Mayor desire that individuals and businesses in the City comply with recommended practices to reduce the virus spread including social distancing and the use of face shields or cloth face masks.

*NOW, THEREFORE, be it resolved that I, John A. Lundell, Mayor of Coralville, proclaim the **COVID-19 Prevention Initiative** in Coralville and request that everyone social distance and wear face shields or cloth masks when they are in proximity of other persons both in public as well as private locations and that these practices continue indefinitely until substantial progress in curbing the spread of the COVID-19 virus had been declared by public health officials,*

Signed this 14th day of July, 2020

John A. Lundell, Mayor



PROCLAMATION AMENDMENT

WHEREAS, on March 15, 2020 and by amendments on March 17 and June 5, I determined that a state of emergency or public danger existed and directed restrictions on all gatherings on public property or public right-of-way; and

WHEREAS, COVID-19 continues to pose a serious and potentially deadly threat to the public and the public health as the Federal Center for Disease Control (“CDC”) guidance notes that large events and mass gatherings can contribute to the spread of COVID-19 in the United States by introduction of the virus to new communities; and

WHEREAS, the Governor of Iowa by Proclamation dated July 24 continues to strongly encourage all vulnerable Iowans to continue to limit their activities outside their home including participation in gatherings of any size and any purpose and she continues to encourage all Iowans to limit and to exercise particular care and caution with in-person interactions with vulnerable Iowans and the CDC has noted that events of any size should only be continued if they can be carried out with adherence to guidelines for protecting vulnerable populations, hand hygiene and social distancing; and

WHEREAS, new positive cases of the virus continue at an alarming rate in Polk County and in the City of Des Moines, putting the health care system and City residents in immediate danger with no end in sight to this alarming rate of infection; and,

WHEREAS, predictive modeling shows that Polk County could be heading toward another spike in COVID-19 cases and as certain large events and gatherings are now able to take place, the community must be prepared to respond to an increase in virus cases should it occur and the universal use of face coverings in our community may be the best way to keep businesses open, reduce the spread of the virus, and save lives; and,

WHEREAS, the Governor has determined that children must attend school in person except in very limited circumstances, and exposure of children to large groups of other children presents serious health risks to even larger groups of persons, both as to children, teachers and staff and to parents and those coming in contact with the children, teachers and staff; and,

WHEREAS, the CDC has 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,

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 Polk County Medical Coordination Center and multiple local physicians and medical associations have encouraged the idea of face coverings in public places, including physicians experienced in epidemiology and infectious diseases; and,

WHEREAS, the wearing of face coverings within the City of Des Moines 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 Proclamation and the guidance of the IDPH and the Polk County Health Department; and,

WHEREAS, the Governor Proclamation requirements and CDC recommendations are made in an attempt to reduce the spread of infection in communities affected by the virus; and

WHEREAS, Iowa Code Section 372.14(2) and the City of Des Moines Municipal Code Section 2-168 grant the Mayor powers in emergency circumstances when public danger exists to take extraordinary steps to protect the public health and safety.

NOW, THEREFORE, IN CONSIDERATION OF THE FORGOING AND OTHER VALID EMERGENT CONCERNS, I, T.M. FRANKLIN COWNIE, MAYOR OF THE CITY OF DES MOINES, PROCLAIM THE FOLLOWING:

I determine that the state of emergency or public danger determined to exist in my Proclamation of March 15, 2020, Proclamation Amendment of March 17, 2020 and proclamation Amendment of June 5, 2020 still exists 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. I therefore strongly and urgently encourage all persons in the City of Des Moines to 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:

- 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 settings or place of public accommodations as defined in Chapter 62, including without limitation all retail stores, restaurants, bars, taverns 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-sharing or carpooling).

B. Gatherings. I therefore direct that the Proclamation prohibition on indoor gatherings of 10 people or more on public property or public right-of-way shall continue in full force and effect. I further direct that such Proclamation shall be further amended to prohibit an outdoor social, community, recreational, leisure or sporting gathering or event, including, but not limited to a parade, festival, convention, or fundraiser, of more than 250 people on public property or public right-of-way that has not previously been leased to a third party. In the event of such previously leased property, the prohibition shall be limited to the greater of 250 people or 25% of facility capacity. I further direct that such Proclamation shall be further amended to require that an outdoor social, community, recreational, leisure or sporting

gathering or event, including, but not limited to a parade, festival, convention, or fundraiser, of more than 10 and up to 250 people on public property or public right-of-way shall comply with the following requirements:

- 1) The gathering organizer or sponsor must limit the number of participants present in any outdoor venue with grandstands or other permanent seating to 50% of its normal operating capacity and limit the number of participants in other outdoor settings to a number that permits the social distancing required by paragraph 2.
- 2) The gathering organizer or sponsor must ensure at least six feet of physical distance between each group or individual attending alone.
- 3) The gathering organizer or sponsor shall implement reasonable measures under the circumstances of each gathering to ensure social distancing of gathering participants, increased hygiene practices, use of face coverings when social distancing isn't possible and other public health measures to reduce the risk of transmission of COVID-19 consistent with guidance issued by the Iowa Department of Public Health and, for any food service, the Iowa Department of Inspections and Appeals.
- 4) Practices, game and competitions for recreational or sporting gatherings are not prohibited even where athletes may have contact within six feet, provided that the City Manager determines that the gathering organizer or sponsor of such activities and events implements reasonable measures under the circumstances of each gathering, including by way of example increased testing, face coverings, ensured reasonable social distancing, increased hygiene practices and other health measures for athletes and participants to reduce the risk of transmission of COVID-19 consistent with the most restrictive guidance issued by the Iowa Department of Public Health or the CDC.
- 5) The gathering organizer or sponsor shall comply with all other relevant provisions of the Governor Proclamation.
- 6) The gathering organizer or sponsor shall comply with all other reasonable and lawful permit requirements imposed by the City Manager to reduce the risk of transmission of COVID-19.

As part of the permit application to conduct a social, community, recreational, leisure or sport gathering or event of more than 10 and up to 250 people on public property or public right-of-way, the gathering organizer or sponsor must document its willingness, ability and capacity to comply with all the above requirements. If the City Manager reasonably determines that the gathering organizer or sponsor is unwilling, unable or otherwise incapable of complying with all the above requirements, the City Manager shall not issue a permit for the gathering or event and such gathering or event shall be prohibited. I further determine and direct the Police Chief to enforce such direction to avoid any such prohibited gatherings, whether formally or informally organized.

I further strongly urge—consistent with the recommendations of the Governor and CDC—that private gatherings of 10 or more people on private property shall comply with all applicable requirements of the Governor Proclamation.

C. Provision of Face Coverings. Given the evidence that demonstrates reduced risk of contracting COVID-19 by use of face coverings, I hereby direct the City Manager to investigate creating a program using his emergency procurement authority to procure and distribute face masks to members of the public not using face masks in the situations above described, utilizing city employees, volunteers, non-profits and other concerned individuals willing to disseminate such face coverings.

D.. General. This Amendment to the previously issued and amended Proclamation of emergency and public danger is part of an ongoing response of the City of Des Moines 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 (B) and this Section (D) herein, per Section 2-168(c) of the Municipal Code, the public is advised that the violation of a mayoral proclamation of emergency or of any subsidiary proclamation thereto evidencing the exercise of emergency powers or of any rule or order issued pursuant thereto by the Mayor or the City Manager or of any order issued pursuant thereto by any peace officer or of any directive issued by designated emergency services personnel pursuant thereto shall constitute a violation of that section and shall be punishable as a misdemeanor as provided by section 1-15 of the municipal code.

PROCLAIMED THIS 31st DAY OF JULY, 2020 BY THE AUTHORITY VESTED IN ME BY THE CODE OF IOWA AND THE CITY OF DES MOINES MUNICIPAL CODE:

T.M. FRANKLIN COWNIE
MAYOR
CITY OF DES MOINES

RESOLUTION 159-2020

RESOLUTION ENCOURAGING COVID-19 PUBLIC HEALTH PRACTICES IN URBANDALE

WHEREAS, countries around the globe have experienced the COVID-19 Coronavirus pandemic with over 15 million confirmed cases and 620,000 deaths; and

WHEREAS, the number of COVID-19 cases continue to increase in our nation, state and counties placing our residents at risk for serious illness or death; and

WHEREAS, consistent with recommendations of the Centers for Disease Control & Prevention, the Iowa Department of Public Health, Dallas County Health Department and Polk County Health Department, face coverings are an effective means to prevent the spread of COVID-19; and

WHEREAS, the City of Urbandale is taking steps to respond to the COVID-19 pandemic and is committed to protecting the health of residents, visitors, students and employees in the City of Urbandale from the spread of COVID-19; and

WHEREAS, the City of Urbandale encourages individuals in the City to comply with recommended public health practices to reduce the virus spread including social distancing and the use of face coverings.

WHEREAS, the City of Urbandale encourages businesses throughout Urbandale to explore similar measures as a way to reduce the spread of COVID-19 and help keep businesses operational.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF URBANDALE, IOWA:

That the City encourages everyone to social distance and wear face coverings when they are in proximity of other persons and that these practices continue until substantial progress in curbing the spread of the COVID-19 virus has been declared by public health officials.

PASSED AND APPROVED this 28th day of July, 2020.

By: _____
Robert D. Andeweg, Mayor

ATTEST:

Nicole Lunders, City Clerk

ORDINANCE NO. _____-20

AMENDING CITY OF DUBUQUE CODE OF ORDINANCES TITLE 6 HEALTH, HOUSING, SANITATION AND ENVIRONMENT, CHAPTER 1 HEALTH AND SAFETY REGULATIONS, BY ADDING A NEW SECTION 2 FACE COVERING REQUIREMENT

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DUBUQUE, IOWA:

Section 1. City of Dubuque Code of Ordinances Section 6-1 is amended by adding thereto the following new section:

6-1-2: FACE COVERING REQUIREMENT:

A. Every person in the City of Dubuque three (3) years of age or older must wear a face covering that covers the person's nose and mouth as follows:

1. Outside whenever one cannot stay at least six (6) feet away from others;
2. Inside any indoor public setting, for example, but not limited to:
 - a. Grocery stores.
 - b. Pharmacies.
 - c. Hardware stores.
 - d. Retail stores.
 - e. Any other indoor public setting when with persons who do not live in the person's household.
3. When using public transportation or a private car service, including taxis, ride share, or carpooling.

B. Places and times where a person is not required to wear a face covering:

1. While traveling in a personal vehicle alone or with household members.
2. While a person is alone or in the presence of only household members.
3. While outside, if keeping six (6) feet away from others is possible

4. While exercising at moderate or high intensity such as jogging or biking.
5. While seated at a food establishment in the process of eating or drinking.
6. While obtaining a service that would require temporary removal of the person's face covering.
7. When federal or state law prohibits wearing a face covering or requires the removal of the face covering.

C. The following persons are exempt from wearing a face covering:

1. Persons younger than (three) 3 years of age.
2. Anyone who has difficulty breathing or is on oxygen therapy or a ventilator.
3. Anyone who is unconscious, incapacitated, or otherwise unable to remove the face covering without assistance.
4. Anyone who has been told by a medical, legal, or behavioral health professional not to wear face coverings.
5. 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.
6. A student participating in co-curricular activities when participating according to the Iowa High School Athletic Association rules for wearing face coverings.

D. A business that is open to the public must post signs at each entrance instructing customers of the legal obligation to wear a face covering as required by this Ordinance while inside the business.

E. No 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 Ordinance.

F. Violations

1. For any violation of this chapter, an initial fine of ten dollars (\$10.00) 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 fine shall be fifteen dollars (\$15.00).
2. Payment of the above fine by mail to the city treasurer shall be deemed paid as of the date of the postmark on the envelope thereof.

3. For purposes of this section, a fine 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 violations through collections or the issuance of a municipal infraction pursuant to the City of Dubuque Code of Ordinances §1-4-2.

G. Appeal.

1. Within ten (10) days of a violation a person may file with the Police Department a written notice of appeal.
2. Upon appeal, a municipal infraction shall be issued pursuant to City of Dubuque Code of Ordinances §1-4-2.

Section 2. This Ordinance shall take effect upon publication.

Passed, approved and adopted this 6th day of August, 2020.

Roy D. Buol, Mayor

Attest:

Kevin S. Firnstahl, City Clerk

MAYOR'S ORDER

RE:

FACE COVERINGS

2020 SEP 21 11:11 AM
CITY CLERK
CITY OF IOWA CITY

Whereas, as Mayor of the City of Iowa City I took an oath to uphold and defend the Constitution of the United States and the Constitution of the State of Iowa; and;

Whereas, Article III, Section 38A of the Iowa Constitution grants to 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 municipalities "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,

Whereas, 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, a city may set standards "more stringent than those imposed by state law, unless a state law provides otherwise." Iowa Code Section 364.3(a); City of Des Moines v. Gruen, 457 N.W.2d 340, 343 (Iowa 1990); Bryan v. City of Des Moines, 261 N.W.2d 685, 687 (Iowa 1978)

Whereas, Section 372.14(2) of the Iowa Code authorizes the Mayor "to govern the city by proclamation, upon making a determination that time of emergency or public danger exists"; and,

Whereas, pursuant to the powers vested in me as Mayor under Section 372.14(2) of the Iowa Code and Section 8-1-2 of the City Code of Iowa City, I issued a Proclamation of Civil Emergency on March 18, 2020 due to the dangers presented by the Novel Coronavirus 2019 (COVID-19) and declared my intention to take such extraordinary measures as are in my judgment necessary to maintain health, welfare and safety within the community; and,

Whereas, on March 17, 2020, the Governor of Iowa issued a Proclamation of Public Health Disaster Emergency after multiple cases of COVID-19 had been confirmed in Iowa and the Iowa Department of Public Health determined that community spread was occurring within the state; and,

Whereas, positive cases of the virus continue at an alarming rate in Johnson County and Iowa City, its largest municipality; and,

Whereas, August may bring the return to the City of thousands of students to attend the University of Iowa, which will further increase the risk of spread of the virus within our community; and,

Whereas, the Centers for Disease Control (CDC) has 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,

Whereas, on July 17, 2020, the Director of the Johnson County Department of Public Health, in asking all area municipalities to adopt a face covering resolution, stated: "We ask that everyone recognize and understand that wearing a face covering in public is more than a simple gesture, it protects others,"; and further stated: "Much is unknown but one thing is evident, the virus is

here to stay and we must take action. While our path is uncertain and much is unknown, we do have the tools to reduce risk to ourselves and each other. We just have to use them. This action requires the collective actions of everyone.”; and,

Whereas, the Governor’s current proclamation requires 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 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 refers the public to the “local public health agency, the appropriate regulating agency or professional association” with questions about how to implement its guidance; and,

Whereas, a requirement that persons in Iowa City 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 and the Johnson County Department of Public Health.

Pursuant to Article III, Section 38A of the Iowa Constitution, the powers vested in me as Mayor under Section 372.14(2) of the Iowa Code, Section 8-1-2 of the City Code of Iowa City, and the Mayor’s Proclamation of Civil Emergency signed March 18, 2020, I deem it advisable that when present within the City of Iowa City all persons wear face coverings as ordered below.

I hereby ORDER effective immediately:

Every person in the City of Iowa City must wear a face covering that covers their nose and mouth when in a public place as follows:

- In public, as opposed to being in one’s place of residence, when one cannot stay six (6) feet away from others
- Inside of any indoor public settings, for example, but not limited to:
 - Grocery stores
 - Pharmacies
 - Hardware stores
 - Retail stores
 - Other public settings that are not one’s place of residence and when with persons who do not live in the household
- Outside, if keeping six (6) feet away from others is not possible
- Using public transportation or private car service (including taxis, ride share, or carpooling)

No 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 order, and businesses that are open to the public must post signs at entrance(s) instructing customers of their legal obligation to wear a face covering while inside.

Those who are exempt from wearing a face covering:

- Persons younger than 2 years old due to the risk of suffocation

- Anyone who has trouble breathing, on oxygen therapy or ventilator
- Anyone who is unconscious, incapacitated, or otherwise unable to remove the face covering without assistance
- Anyone who has been told by a medical, legal, or behavioral health professional not to wear face coverings
- Anyone actively engaged in a public safety role, including but not limited to law enforcement, firefighters, or emergency medical personnel.

Places and times where persons are exempt from wearing a face covering:

- While traveling in a personal vehicle alone or with household members
- While a person is alone or in the presence of only household members
- While exercising at moderate or high intensity e.g. jogging or biking
- While seated at a food establishment in the process of eating or drinking
- While obtaining a service that would require temporary removal of the persons face covering
- When federal or state law prohibits wearing a face covering or requires the removal of the face covering

Pursuant to City Code Section 8-1-2 a violation of this Order or any directive given pursuant hereto by any police officer shall be unlawful and punishable as a simple misdemeanor. Citation shall be a last resort to obtain compliance.

This Order shall expire on September 15, 2020 unless otherwise rescinded or extended.

Issued this 21st day of July 2020.

By: Bruce Teague
Bruce Teague
Mayor, City of Iowa City of Iowa City

Attest: Kellie K. Fruehling
Kellie K. Fruehling
City Clerk

2020 JUL 21 10:11 AM
CITY CLERK

Proclamation of the Mayor
Face Covering Mandate - City Wide

WHEREAS, The World Health Organization has declared the Novel Coronavirus 2019 (Covid-19) a pandemic; and

WHEREAS, The President of the United States and Governor of Iowa have declared National and State Emergency Proclamations; and

WHEREAS, Muscatine Mayor Diana Broderson in collaboration with Muscatine County and other Mayors of the Municipal Jurisdictions within Muscatine County made a Declaration of Disaster Emergency on 3-24-2020 in effect until cancelled or 9-23-2020; and

WHEREAS, The impact of the pandemic continues to meet the parameters of a civil emergency; and

WHEREAS, Covid-19 spreads mainly from person to person through respiratory droplets when infected people cough, sneeze, or talk; and

WHEREAS, Evidence based data demonstrates that wearing a cloth face covering reduces an infected person's chance of spreading the infection to others; and

WHEREAS, Reducing the spread of Covid-19 will allow the economic community to remain open to the public during the pandemic; and

WHEREAS, Many people in the City of Muscatine regularly wear face coverings when in public, requiring all people in the City of Muscatine to wear face coverings in public will help control and prevent the spread of Covid-19 in the City of Muscatine while at the same time allowing the economic community to continue providing service in the City;

NOW, THEREFORE, I, Diana L. Broderson, Mayor of the City of Muscatine, Iowa as a result of the above noted situation, and under the Constitution of the State of Iowa Article III, Section 38A, Iowa Code §372.14(2), Muscatine City Code 1-7-2, and other applicable authority do hereby order the following:

Section 1

Every person in the City of Muscatine must wear a face covering that covers their nose and mouth when in any indoor or outdoor public setting, including, but not limited to:

- Inside any building, including but not limited to, any business open to the public;
- Healthcare settings, including but not limited to a, hospital, medical clinic, laboratory; pharmacy, veterinary clinic, physician or dentist office, and blood bank;
- While in line waiting for or riding on public transit or any vehicle for hire;

Section 5

Members of the public are required by law to comply with this order and violations will be addressed through:

- Enforcement will be duly provided by the Muscatine Police Department and any other legal authority in the City of Muscatine;
- Violators will be guilty of a Municipal Infraction and punishable as provided in Section 1-3 of the City Code;

If this action and the order of another agency or official are in conflict, the more protective requirement will apply. This Order shall take effect on July 6, at 6 am. The sunset of this declaration will be six months from the date enacted unless sooner terminated or extended in writing.

Mayor Diana L. Broderson

City of Muscatine

Date

To: All City and County Government Officials
From: Story County Board of Health
Date: August 6, 2020
Subject: Face Covering Resolution

The Story County Board of Health is asking all municipalities across Story County to adopt a face covering resolution. Current research strongly suggests that requiring face covering use in public places could be among the most powerful tools to stop the community spread of COVID-19.

Recent research has shown that:

- The majority of infections may be attributable to pre-symptomatic and asymptomatic, or “silent” transmissionⁱ
- Face coverings, including non-medical or cloth face masks and face shields, have been effective in reducing transmission of coronavirus by reducing transmission of infected droplets from the mouth and nose that spread the virusⁱⁱ
- Consistent, widespread use of face coverings in public settings will dramatically lower community transmission of COVID-19ⁱⁱⁱ
- Public mandates for use of face coverings appear to be highly effective at increasing compliance and slowing or stopping the spread of COVID-19^{iv}

Many organizations or workplaces have already implemented policies requiring face coverings, but for these practices to work at a community level, EVERYONE needs to practice this measure. Areas where public health measures are not practiced are areas where the virus has a higher chance to infect others. If municipalities in Story County can encourage mitigation practices where health measures are not practiced, the risk of transmission will be greatly reduced.

As local officials, your obligation is to act in the best interest of your constituents; in this case, that means saving lives. While we are not aware of a similar study specific to Story County, a recent state-wide survey found that 72% of Iowans believe that everyone should wear a mask/facial covering when out in public to reduce the transmission of COVID-19^v. Across 24 relevant studies, most stakeholders found physical distancing and use of face masks and eye protection acceptable, feasible, and reassuring^{vi}.

With schools and colleges planning to convene this summer and fall, the approach of flu season, and current lack of a vaccine or post-infection immunity, the time to act is now. Adoption of face covering resolutions should be put in place immediately to keep transmission low, prevent our hospitals from being overwhelmed, and protect our most vulnerable community members. We also ask business leaders who offer products and services to the public to require their employees and customers to wear masks whether or not it is required by local law. This vital step will help protect workers and customers.

Such requirements will greatly increase the rate of individuals wearing face coverings. This should be done in conjunction with, not as a replacement for, other mitigation practices, such as hand hygiene, physical distancing, and staying home when ill. For more information, please review the COVID-19 Mitigation Guidance Within Story County- Recommendations From The Story County Board Of Health, available at: <http://www.storycountyiowa.gov/336/Board-of-Health>.

To aid in the development of a unified face covering resolution, recommended guidance has been provided (Appendix 1).

Sincerely,
Story County Board of Health

ⁱ The implications of silent transmission for the control of COVID-19 outbreaks. Seyed M. Moghadas, Meagan C. Fitzpatrick, Pratha Sah, Abhishek Pandey, Affan Shoukat, Burton H. Singer, Alison P. Galvani. *Proceedings of the National Academy of Sciences* Jul 2020, 117 (30) 17513-17515; DOI: 10.1073/pnas.2008373117

ⁱⁱ Konda A, Prakash A, Moss GA, Schmoltdt M, Grant GD, Guha S. Aerosol Filtration Efficiency of Common Fabrics Used in Respiratory Cloth Masks [published correction appears in *ACS Nano*. 2020 Jun 18;:]. *ACS Nano*. 2020;14(5):6339-6347. doi:10.1021/acsnano.0c03252

ⁱⁱⁱ Physical distancing, face masks, and eye protection to prevent person-to-person transmission of SARS-CoV-2 and COVID-19: a systematic review and meta-analysis. Chu, Derek KChu, Derek K et al. *The Lancet*, Volume 395, Issue 10242, 1973 – 1987.

^{iv} Community Use Of Face Masks And COVID-19: Evidence From A Natural Experiment Of State Mandates In The US. Lyu, Wei and Wehby, George. *Health Affairs*, 9, No. 8 (2020): 1–7. doi: 10.1377/hlthaff.2020.00818

^v COVID-19 Wave 3 Re-Opening and Economic Recovery Summary Report. SPPG + Essman Research. *Business Record*, Jul 14, 2020. Available at: https://134eae71-4677-40e5-ac23-f71ac6d099e6.filesusr.com/ugd/1b1b6d_7bbd46cc7e2a4d149602bbc91bd65e6d.pdf

^{vi} Physical distancing, face masks, and eye protection to prevent person-to-person transmission of SARS-CoV-2 and COVID-19: a systematic review and meta-analysis. Chu, Derek KChu, Derek K et al. *The Lancet*, Volume 395, Issue 10242, 1973 – 1987.

Appendix 1: Recommended Face Covering Guidance

People must wear a face covering when:

- In public or in a residence with persons who do not live in their household and they cannot stay six (6) feet away from others
- Inside of any indoor public settings, for example, but not limited to:
 - Grocery, retail, and hardware stores
 - Gas stations
 - Bars and restaurants
 - Fitness centers
 - Pharmacies
 - Other public settings that are not one's place of residence
- Outside, if keeping six (6) feet away from others is not possible
- Using public transportation or private car service (including taxis, ride share, or carpooling)
- In one's household if individuals who do not live in the household are present
- In one's household if the household includes members with health risks and the community is experiencing high rates of positivity

Those who are exempt from wearing a face covering:

- Persons younger than 2 years old due to the risk of suffocation
- Anyone who has trouble breathing, or is on oxygen therapy or a ventilator
- Anyone who is unconscious, incapacitated, or otherwise unable to remove their face covering without assistance
- Anyone who has been told by a medical, legal, or behavioral health professional not to wear face coverings

Places and times where persons are exempt from wearing a face covering:

- While traveling in a vehicle alone or with household members who are not at increased risk
- While a person is alone or in is in the presence of only household members who are not at increased risk
- While exercising at moderate or high intensity e.g. jogging or biking
- While seated at a food establishment in the process of eating or drinking
- While obtaining a service that would require temporary removal of the persons face covering
- When federal or state law prohibits wearing a face covering or requires the removal of the face covering

Appropriate use of a face covering, including cloth face coverings and face shields, includes:

- A snug fit, but comfortable against the side of the face
- Completely covers the nose and mouth
- Is secured with ties or ear loops
- Allows for breathing without restriction
- Can be cleaned and disinfected or laundered and dried without damage or change to shape

For more information about cloth face coverings and appropriate use, visit:

<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html>