MAYORAL PROCLAMATION NO. 10-09-20

A PROCLAMATION DECLARING A CONTINUED STATE OF EMERGENCY AND REQUIRING FACE COVERINGS

WHEREAS, on March 20, 2020, I, Brad Hart issued an Emergency Declaration Proclamation due to the emergence and spread of the COVID-19 disease; 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 August 21 continues to strongly encourage all Iowans two years of age or older to wear a mask or other face covering when in public settings, especially in circumstances when it is not possible to remain six feet away from others outside their household, unless it is unsafe to do so because of health or disability; and

WHEREAS, new positive cases of the virus continue at an alarming rate in the state of Iowa, Linn County, Johnson County and in the City of Cedar Rapids and other surrounding areas, putting the health care system and City residents in immediate danger and with no end in sight to the situation; and

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

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); and

WHEREAS, chief among the powers of local government is the power to promote and protect the health and safety of its residents, especially during a time when public health is in danger; and

WHEREAS, Iowa Code Section 372.14(2) and the Cedar Rapids Municipal Code grant the Mayor powers in emergency circumstances when public danger exists to take extraordinary steps to protect the public health and safety.

WHEREAS, pursuant to the powers vested in the Mayor under Iowa Code Section 372.14(2) and the Cedar Rapids Municipal Code, I have issued proclamations due to the dangers presented by COVID-19 and I have determined that additional extraordinary measures
are necessary to protect and not worsen the health, safety and welfare within the community; 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, on August 9, 2020, a White House coronavirus task force issued new recommendations for Iowa to mandate face coverings in the state’s largest cities, and Cedar Rapids is Iowa’s second largest city, to try to slow the spread of COVID-19; and

WHEREAS, the Governor’s August 21, 2020 Proclamation also 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, a requirement that persons within the City of Cedar Rapids 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, as well as the Linn County Department of Public Health.

NOW, THEREFORE, IN CONSIDERATION OF THE FORGOING AND OTHER VALID EMERGENT CONCERNS, I, BRADLEY G. HART, MAYOR OF THE CITY OF CEDAR RAPIDS, IOWA HEREBY PROCLAIM THE FOLLOWING:

1. Continued State of Emergency. I determine that the state of emergency or public danger determined to exist in my Proclamation of March 20, 2020, and subsequent proclamations continues to exist, the recitals contained hereinabove are true and correct, and that the guidance referenced herein is appropriate and instructional and that the Governor’s prohibitions and requirements are legal and binding.

2. Face Coverings. Consistent with the authority granted me by the Iowa Code and the Cedar Rapids Municipal Code referenced above, I therefore direct, require and order that all persons in the City of Cedar Rapids 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 (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 settings or place of public accommodations as defined in the Cedar Rapids Municipal Code, including Chapter 69, and also 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 share, or carpooling).

(b) No organization that is a public accommodation 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 under 2 years of age;
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 actively engaged in a public safety role, including but not limited to law enforcement, firefighters, or emergency medical personnel;
6) Any person traveling in a personal vehicle alone or with members of the same household;
7) Any person who is alone or in the presence of only members of the same household;
8) Any person exercising at moderate or high intensity (e.g. jogging or biking);
9) Any person seated at a food establishment when actually engaged in the process of eating or drinking;
10) Any person actually obtaining a service that would require temporary removal of the persons face covering (e.g. dental, orthodontic or medical services);
11) Any person for whom a face covering would be violative of a sincerely held religious belief or doctrine;
12) When Federal or State law prohibits wearing a face covering or requires the removal of the face covering.

3. 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 Manager to continue the City 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.
4. **Enforcement.** I believe that most of the citizens of our city will abide by the terms of this Proclamation. I also believe that the members of the Cedar Rapids Police Department or any other officer who may be charged with the enforcement of the Proclamation will use education and information to bring about compliance. But, as a last resort, any violation of this proclamation, or of any emergency proclamation issued pursuant to the determination of a state of emergency, or of any order or rule issued pursuant to this or any supplemental proclamation, or of any order issued by a peace officer pursuant to this or any supplemental proclamation, or of any directive issued by designated emergency services personnel pursuant to this or any supplemental proclamation shall constitute a misdemeanor or municipal infraction and may be punished as provided by the Cedar Rapids Municipal Code.

5. **General.** This Proclamation and the previous proclamations of emergency are part of an ongoing response of the City of Cedar Rapids 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.

Proclaimed this _____ day of ______________, 2020

___________________________________________
Brad Hart, Mayor of the City of Cedar Rapids