

DEREK LINDOO,  
[REDACTED],

BRANDON WIDIKER,  
[REDACTED],

JOHN KRAFT  
[REDACTED],

Plaintiffs,

Case Type: Declaratory Judgment

Case Code: 30701

v.

TONY EVERS, in his official  
capacity as Governor of the  
State of Wisconsin,  
115 East, State Capitol,  
Madison, WI 53702,

Defendant.

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### COMPLAINT

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Through his undersigned counsel, Plaintiffs Derek Lindoo, Brandon Widiker, and John Kraft, as their complaint against Defendant Tony Evers in his official capacity as Governor of the State of Wisconsin, alleges as follows:

1. This action challenges the legality of Defendant Evers' Executive Order #82, issued on July 30, 2020, purporting to declare a second state of emergency arising from an ongoing public health emergency resulting from the COVID-19 pandemic in Wisconsin and invoking the Governor's emergency powers arising from a state of emergency under Wis. Stat. § 323.10. Defendant Evers had previously issued Executive Order #72 on March 12, 2020, declaring a public

health emergency resulting from the COVID-19 pandemic in Wisconsin and invoking the Governor's powers under a state of emergency pursuant to Wis. Stat. § 323.10. By law, that original state of emergency – and the powers associated with it – expired 60 days after it was issued, and can only be extended by joint resolution of the Legislature.

2. The Governor may not unilaterally extend the state of emergency beyond 60 days, nor may the Governor avoid the law setting a 60-day time limit as set forth in § 323.10 by declaring multiple emergencies arising from the same biological agent without abatement or substantial suppression. To interpret the law otherwise, would allow one person rule by the Governor for what could be a virtually unlimited amount of time whenever the capacious and vague statutory definition of a “public health emergency” or “disaster” can be said to be present. State law, and our Constitution, say otherwise. Defendant Evers' issuance of Executive Order #82 ignores these statutory restrictions and unilaterally and unlawfully extends the state of emergency for another 60 days without approval by the Legislature. In so doing, it arrogates to the Governor the power to unilaterally make law for an indefinite period of time.

3. After issuing Executive Order #82, Defendant Evers availed himself of the emergency powers he activated for himself and issued Emergency Order #1 purporting to mandate mask wearing for all Wisconsinites, with limited exceptions. Since Executive Order #82 itself is unlawful, it follows that Emergency Order #1 (which depends upon the existence and legality of Executive Order #82) is also invalid and void. Although he has not yet done so, Governor Evers would presumably say that he is entitled to issue any number of additional extraordinary measures pursuant to the emergency declared by Executive Order #82, including travel bans, lockdowns and the closing of businesses, churches and other gatherings.

4. This case is not about whether the State of Wisconsin, as a whole, (as opposed to local municipalities) should take additional measures to thwart COVID-19, or what those measures (statewide or local) should be. It is not even about whether there can ever be a mask mandate. This case is about: (1) whether a Governor may extend an emergency past the 60-day statutory time limit without legislative approval, and (2) whether a Governor may sequentially declare consecutive public health emergencies for the same underlying public health crisis.

### **PARTIES**

5. Plaintiff Derek Lindoo is a Wisconsin resident and taxpayer. Plaintiff Lindoo resides at [REDACTED]. He is required to follow the mandates of Emergency Order #1 and any other orders issued by the Governor, based on the emergency powers that are being unlawfully exercised as a result of Executive Order #82.

6. Plaintiff Brandon Widiker is a Wisconsin resident and taxpayer. Plaintiff Widiker resides at [REDACTED]. He is required to follow the mandates of Emergency Order #1 and any other orders issued by the Governor, based on the emergency powers that are being unlawfully exercised as a result of Executive Order #82.

7. Plaintiff John Kraft is a Wisconsin resident and taxpayer. Plaintiff Kraft resides at [REDACTED]. He is required to follow the mandates of Emergency Order #1 and any other orders issued by the Governor, based on the emergency powers that are being unlawfully exercised as a result of Executive Order #82.

8. Defendant Tony Evers is Governor of the State of Wisconsin and is sued in his official capacity. Defendant Evers maintains his office at 115 East, Wisconsin State Capitol, in the City of Madison, Dane County, Wisconsin. Defendant Evers issued the orders that are subject of this litigation.

## **JURISDICTION AND VENUE**

9. This Court has jurisdiction to hear this case pursuant to Wis. Stat. § 806.04 (1)-(2).
10. Venue in this Court is proper pursuant to Wis. Stat. § 801.50(2)-(3).

## **FACTS**

11. Wis. Stat. § 323.10 empowers the Governor to determine if a state of emergency exists. An emergency can either be a “disaster” or “public health emergency.” A “public health emergency” is defined as the occurrence or imminent threat of an illness or health condition that meets all of the following criteria:

- (a) Is believed to be caused by bioterrorism or a novel or previously controlled or eradicated biological agent.
- (b) Poses a high probability of any of the following:
  1. A large number of deaths or serious or long-term disabilities among humans.
  2. A high probability of widespread exposure to a biological, chemical, or radiological agent that creates a significant risk of substantial future harm to a large number of people.

Wis. Stat. § 323.02 (16).

12. Once determined that such a “public health emergency” exists, the Governor may issue an executive order declaring a state of emergency related to public health. But, without regard to the nature of the underlying emergency or its duration, Wisconsin law limits the duration of such a state of emergency declared by the Governor to 60 days unless extended by joint resolution of the Legislature. Wis. Stat. § 323.10.

13. Once a state of emergency has been declared by the Governor, certain emergency powers that are, on their face, extraordinarily broad become available to the Governor pursuant to statute. He or she can, for example, “issue such orders as he or she deems necessary for the security of persons and property.” Wis. Stat. § 323.12(4). But these powers exist only for the 60-day period following the declaration of the state of emergency. Unless they are extended by the Legislature, they expire without the need for any action.



14. On March 12, 2020, Defendant Evers made an initial determination that a public health emergency existed in Wisconsin due to COVID-19.

15. In order to activate his statutory emergency powers to combat the COVID-19 pandemic, Defendant Evers issued Executive Order #72 declaring a public health emergency. A true and correct copy of Executive Order #72 is attached hereto as Exhibit A.

16. Executive Order #72 remained in force for a full 60 days, and then expired on May 11, 2020, pursuant to state law.

17. Here, Defendant Evers has now declared a second state of emergency (approximately two months after the expiration of the first), arising from the same underlying public health condition. Defendant Evers never declared that the pandemic leading to the issuance of Executive Order # 72 was suppressed, eradicated or abated. Nor could any reasonable claim be made that it was suppressed, eradicated or abated. It has continued.

18. In fact, Defendant Evers previously attempted to extend his exercise of emergency powers beyond those initial 60 days by directing the Department of Health Services to issue an order extending his desired measures beyond the expiration of the original public health emergency. Thus, in late April, at the Governor's direction, Secretary-designee of the Department of Health Services, Andrea Palm, issued Emergency Order # 28 substantially extending the "Safer At Home" order beyond the 60-day state of emergency declared by Executive Order # 72, as well as Emergency Order #31, known as the "Badger Bounce Back" order. Both of those emergency orders purported to be in effect well after the expiration of the original state of emergency. In causing these orders to issue, Defendant Evers' administration relied on Chapter 252 of the statutes and argued that they were not subject to the time limits of Chapter 323. The Wisconsin Supreme Court invalidated these orders on May 13, 2020, holding that these Chapter 252 powers were not

as broad as those exercised in these orders and must be promulgated by rule. *Wisconsin Legislature v. Palm*, 2020 WI 42, 391 Wis. 2d 497, 942 N.W.2d 900. True and correct copies of Emergency Order #28 and Emergency Order #31 are attached hereto as exhibits B and C, respectively.

19. As noted above, the COVID-19 pandemic still exists and has existed – unabated and unsuppressed – in Wisconsin since both the declaration and expiration of the state of emergency declared by Executive Order #72.

20. At no time has the number of daily infections dipped significantly below the number that existed at expiration of the original state of emergency – a time at which the Governor was arguing for continued extraordinary restrictions. See Exhibit D, attached hereto, a true and correct copy of a chart from the state Department of Health Services showing the number of new infections per day in the state from March through August 20, 2020.<sup>1</sup>

21. Further, the number of deaths each day resulting from COVID-19 has remained steady since the beginning of April. See Exhibit E, a true and correct copy of a chart from the Wisconsin Department of Health Services showing the cumulative deaths from COVID-19 in the state by day from March through August 20, 2020.<sup>2</sup>

22. Nor has the COVID-19 crisis materially changed since the second emergency order and associated mask mandate. Although the nominal case count has, on certain days, declined, this appears to be an artifact of reduced testing (the rate of positive tests has not declined) and, in any event, the COVID-19 pandemic in Wisconsin has not materially abated or worsened since the expiration of the initial emergency order.

23. COVID-19 has affected different parts of the state differently, and in some cases, drastically differently. Because of this, the Legislature has not extended the statewide state of

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<sup>1</sup> Chart downloaded from: <https://www.dhs.wisconsin.gov/covid-19/cases.htm>

<sup>2</sup> Chart downloaded from: <https://www.dhs.wisconsin.gov/covid-19/deaths.htm>

emergency declared by Executive Order #72, or imposed other state-wide mandates on Wisconsin citizens, but instead has opted for local solutions, imposed by municipal units of government, to deal with the differing impacts of COVID-19 in different parts of the State.

24. COVID-19 has not greatly impacted Polk County. As of August 24, 2020, only 156 out of the 75,231 confirmed cases in Wisconsin are from Polk County. Only two persons have died. The positive rate of tests is a fraction of the state wide average.

25. As a result of the expiration of Executive Order #72 on May 11, 2020, and the Legislature's decision not to extend it, Defendant Evers has no constitutional or statutory basis to continue to declare or exercise emergency powers related to COVID-19. Whatever laws may be necessary or appropriate to deal with the COVID-19 pandemic may not be unilaterally imposed by the Governor, but, subject to the strictures of the United States and Wisconsin Constitutions, must instead be: (1) passed by the Legislature and signed into law by the Governor; (2) properly promulgated as a rule using the statutory rulemaking process; or (3) within the powers of local governments as properly delegated by the Legislature by statute.

26. Nevertheless, on July 30, 2020, Defendant Evers issued Executive Order #82 in which he again declared a second state of emergency related to public health for the entire state as a result of the same COVID-19 pandemic that was impacting Wisconsin back in March. A true and correct copy of Executive Order #82 is attached hereto as Exhibit F.

27. In proclaiming a second state of emergency related to the COVID-19 pandemic Defendant Evers sought to grant for himself another 60 days to use the emergency powers which the law denies him because the original state of emergency was not extended and expired.

28. Defendant Evers immediately exercised those new emergency statutory powers to issue Emergency Order #1 purporting to mandate the wearing of a mask by every person

throughout the entire State of Wisconsin. A true and correct copy of Emergency Order #1 is attached hereto as Exhibit G.

29. As Wisconsin residents and taxpayers, Plaintiffs are harmed by Emergency Order #1 because, among other reasons: (a) Plaintiffs are being compelled to take an action (wear a mask in certain circumstances when Plaintiffs would otherwise choose not to wear a mask) by an unlawful order of Defendant Evers; (b) the State is spending taxpayer money to promulgate and enforce Defendant Evers' unlawful mask mandate; (c) Defendant Evers now claims plenary powers; and (d) Defendant Evers has used these claimed emergency powers to deploy the national guard at taxpayers' expense.

**CLAIM ONE: FOR A DECLARATION THAT EXECUTIVE ORDER #82 EXCEEDS CONSTITUTIONAL AND STATUTORY AUTHORITY AND IS VOID BECAUSE THE LEGISLATURE HAS NOT AGREED TO AN EXTENSION OF THE PUBLIC HEALTH EMERGENCY DUE TO COVID-19 AS CREATED BY EXECUTIVE ORDER #72.**

30. Plaintiffs reallege and incorporate by reference all of the allegations of this complaint as if fully set forth herein.

31. Plaintiffs seeks a declaration that Emergency Order #82 is void in so far as it purports to extend a state of emergency related to the COVID-19 pandemic and thereby grant emergency powers after the expiration of the original state of emergency.

32. Defendant Evers has no power to create law unilaterally. The power to make laws is instead vested in the Legislature. Wis. Const. Art. IV, § 1.

33. Although the Legislature has delegated some of its law making power to the Governor by granting the Governor certain emergency powers upon the declaration of a state of emergency under Wis. Stat. § 323.10, it has also made clear that any such state of emergency is strictly time limited. Even if the Legislature fails to act, "[a] state of emergency shall not exceed

60 days, unless the state of emergency is extended by joint resolution of the legislature.” Wis. Stat. § 323.10.

34. Thus, when Defendant Evers determined a public health emergency due to the COVID-19 pandemic existed in Wisconsin back in March, 2020, and subsequently declared a state of emergency to deal with it, that state of emergency could not be lawfully extended beyond 60 days unless the Legislature, by joint resolution, approved of such an extension.

35. Moreover, because § 323.10 provides that the extension must be by “joint resolution” by the Legislature, as opposed to a bill by the Legislature, the decision to approve or not approve the extension belongs exclusively to the Legislature and is not subject to veto by the Governor.

36. During the initial 60-day state of emergency (and even thereafter) Defendant Evers had the option to seek an extension from the Legislature of the state of emergency, propose and negotiate legislation to deal with the pandemic on a long term basis and/or to have the administrative agencies that he controls propose and promulgate rules to deal with COVID-19. Each of these mechanisms would have required Defendant Evers to seek and obtain the input and consent of the public and the Legislature rather than rule unilaterally, and for his own reasons, he chose not to do so.

37. Having failed to use the constitutional and statutory methods for creating law, Defendant Evers instead seeks to regain access to unilateral emergency powers by extending the state of emergency relating to COVID-19 past its 60-day limit. But Defendant Evers may not do so except by approval of the Legislature by joint resolution. As noted in *Wisconsin Legislature v. Palm*, 2020 WI 42, at ¶ 41, 391 Wis. 2d at 525, 942 N.W.2d at 914, in the case of a pandemic, which lasts month after month, the Governor cannot rely on emergency powers indefinitely.

38. Defendant Evers' attempt to extend a "state of emergency" in Wisconsin beyond 60 days without legislative approval exceeds his power under state law. The state of emergency related to the COVID-19 pandemic declared by Executive Order #82 is ultra vires and void.

39. Defendant Evers may contend that Executive Order #82 is not an extension of the state of emergency declared by Executive Order #72 but is instead a new and different public health emergency. This, too, is wrong on its face. The new state of emergency is predicated on the COVID-19 pandemic, the same public health emergency, and no one would contend that the pandemic ever ended or even significantly abated. The law does not permit extension or replication of a state of emergency and the consequent enhancement of gubernatorial powers because a biological agent has not gone away or even because it has become worse.

40. At no point did Defendant Evers ever declare that the emergency was over. At no point, either prior to or subsequent to expiration of the original emergency, did the number of daily infections, hospitalizations or fatalities ever dip substantially below the levels reached during the original order. While one might argue that the pandemic has gotten worse (infections are up but hospitalizations and fatalities have been much flatter and less likely to rise), the time limit on a declared state of emergency is absolute and cannot be evaded because the underlying public health emergency has "gotten worse" or has not gone away or substantially decreased from that present during the emergency.

41. The Governor lacks the power to unilaterally extend a state of emergency or to declare multiple states of emergency to deal with the same problem. Any other conclusion would allow a Governor to ignore the legislative power vested in the Legislature and to evade the 60-day limitation imposed by the Legislature in Wis. Stat. § 323.10.

42. Both Executive Order #72 and Executive Order #82 are expressly based upon the COVID-19 pandemic in the State of Wisconsin, that is, they address the same “public health emergency.” While the course of the pandemic in Wisconsin has changed over time (with reported cases sometimes going up and sometimes going down), the underlying public health emergency is the same now as it was in March, 2020.

43. There are similar restrictions on the use of emergency powers by executive agencies in other circumstances. For example, when an agency needs to quickly promulgate a rule they may declare an emergency and adopt a rule through the “emergency rulemaking” process under Wis. Stat. § 227.24. But those rules are only valid for 150 days, unless extended by the Legislature, and an agency may not simply re-issue an emergency rule if the Legislature declines to extend it. A formal Attorney General opinion makes clear that this temporal limitation on emergency rulemaking is a “clear expression of intent that the effectiveness of an emergency rule may not be extended beyond” the initial effective period simply by re-filing it. 62 Atty. Gen 305, 308 (1973). Likewise in this case, a state of emergency may not simply be extended beyond the initial 60-day period by re-issuing an executive order.

44. The course of this pandemic – and any other public health emergency for that matter – will always involve changing facts. And if changing facts allow the Governor to unilaterally extend or to declare a “new” emergency and obtain a new 60-day period of emergency powers, then he has been given essentially unlimited power to unilaterally create new laws to be imposed on Wisconsinites via executive fiat.

45. Defendant Evers’ attempt to unilaterally extend or to impose multiple states of emergency in Wisconsin exceeds his power under the Wisconsin Constitution and under state law.

The second state of emergency related to the COVID-19 pandemic declared by Executive Order #82 is ultra vires and void.

46. Unless this Court declares that the state of emergency declared by Executive Order #82, along with Emergency Order #1 which depends on the legality of Executive Order #82, are ultra vires and void, Defendant Evers will continue to exercise the emergency statutory powers beyond the 60-day window in which such powers may have been lawful, in violation of the Wisconsin Constitution and state statutes.

**CLAIM TWO: IN THE ALTERNATIVE, OR IN ADDITION TO, FOR A  
DECLARATION THAT THE STATE OF EMERGENCY DECLARED BY EXECUTIVE  
ORDER # 82 AND, CONSEQUENTLY, THE MASK MANDATE ORDERED BY  
EMERGENCY ORDER #1 ARE UNCONSTITUTIONAL**

47. Plaintiffs reallege and incorporate by reference all allegations made in this complaint as if fully set forth herein.

48. If for any reason, this Court determines that Executive Order #82 is authorized by statute, then the Plaintiffs request a declaration that the statute allowing Executive Order # 82's state of emergency and, consequently, the mask mandate ordered by Emergency Order #1 are unconstitutional.

49. The Wisconsin Constitution vests the legislative power in the Legislature. Wis. Const. Art. IV, § 1.

50. Courts in Wisconsin have permitted the delegation of legislative power to the executive but only so long as "the purpose of the delegating statute is ascertainable and there are procedural safeguards to insure that the board or agency acts within that legislative purpose." *Watchmaking Examining Bd. v. Husar*, 49 Wis. 2d 526, 536, 182 N.W.2d 257 (1971).

51. The ability to declare a public health emergency and the extraordinary emergency powers granted to the Governor during the emergency are both delegations of legislative power to



the executive branch with one of the safeguards being that the Governor may only exercise such emergency powers for 60 days unless that period is extended by joint resolution of the Legislature.

52. Those delegated powers may only be lawfully exercised if they are done consistently with the Wisconsin Constitution, which includes the requirement that they comply with the 60-day safeguard contained in the statute. As the Wisconsin Supreme Court (quoting the U.S. Department of Justice) recently noted “There is no pandemic exception ... to the fundamental liberties the Constitution safeguards.” *Wisconsin Legislature v. Palm*, 2020 WI 42, ¶ 53, 391 Wis. 2d 497, 531, 942 N.W.2d 900, 917.

53. If Wis. Stat. § 323.10 allows Governor Evers to unilaterally extend the state of emergency beyond 60 days, or to declare new states of emergency for the same public health emergency, and to exercise emergency powers otherwise unavailable to him beyond 60 days, then the statute is an unconstitutional delegation of legislative power to the executive.

54. If this Court concludes that Wis. Stat. § 323.10 grants Defendant Evers that power, then the statute is an unconstitutional delegation of legislative power to the executive.

WHEREFORE, Plaintiffs respectfully request that this Court:

A. Issue a declaratory judgment that the state of emergency related to public health declared by Executive Order #82 is ultra vires and void;

B. In the alternative, or in addition to, issue a declaratory judgment that Wis. Stat. § 323.10 is an unconstitutional delegation of legislative power to the executive, and is void;

C. Issue an injunction prohibiting the enforcement of the state of emergency declaration in Executive Order #82 and Emergency Order #1; and

D. Such other relief as the Court deems appropriate.

Dated this 25th day of August, 2020.

Respectfully Submitted,

WISCONSIN INSTITUTE FOR LAW & LIBERTY, Inc.  
Attorneys for Plaintiffs

/S/ Signed electronically by Richard M. Esenberg

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**OFFICE OF THE GOVERNOR**

**EXECUTIVE ORDER #72**

**Relating to a Proclamation Declaring a Health Emergency in Response to the COVID-19 Coronavirus**

**WHEREAS**, in December, 2019, a novel strain of the coronavirus was detected, now named COVID-19, and it has spread throughout numerous countries including the United States;

**WHEREAS**, international organizations, the federal government, state government, and local governments are all working together to contain the further spread of the disease and treat existing cases;

**WHEREAS**, the World Health Organization has declared a Public Health Emergency of International Concern, and the United States Department of Health and Human Services has declared a Public Health Emergency;

**WHEREAS**, the State of Wisconsin has been working to protect all Wisconsinites from the spread of this disease, and to prepare for the impacts it may have on the state; and

**WHEREAS**, in order to protect the health and well-being of its residents, the State of Wisconsin must avail itself of all resources needed to respond to and contain the presence of COVID-19 in the State.

**NOW, THEREFORE, I, TONY EVERS**, Governor of the State of Wisconsin, by the authority vested in me by the Constitution and laws of this state, and specifically by Sections 100.305, 321.39, 323.10, 323.12, and 323.13 of the Wisconsin Statutes, hereby:

1. Proclaim that a public health emergency, as defined in Section 323.02(16) of the Wisconsin Statutes, exists for the State of Wisconsin.
2. Designate the Department of Health Services as the lead agency to respond to the public health emergency.
3. Direct the Department of Health Services to take all necessary and appropriate measures to prevent and respond to incidents of COVID-19 in the State.
4. Suspend the provisions of any administrative rule, if the Secretary of the Department of Health Services determines that compliance with that rule would prevent, hinder, or delay necessary actions to respond to the emergency and increase the health threat.
5. Authorize the Adjutant General to activate the Wisconsin National Guard as necessary and appropriate to assist in the State's response to the public health emergency.
6. Direct all state agencies to assist as appropriate in the State's ongoing response to the public health emergency.

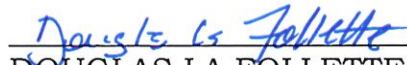
7. Proclaim that a period of abnormal economic disruption, as defined in Section 100.305 of the Wisconsin Statutes, exists in the State of Wisconsin.
8. Direct the Department of Agriculture, Trade, and Consumer Protection to enforce prohibitions against price gauging during an emergency, as authorized under Section 100.305 of the Wisconsin Statutes and Chapter ATCP 106 of the Wisconsin Administrative Code.



**IN TESTIMONY WHEREOF**, I have hereunto set my hand and caused the Great seal of the State of Wisconsin to be affixed. Done at the Capitol in the City of Madison this twelfth day of March in the year of two thousand twenty.

  
\_\_\_\_\_  
TONY EVERS  
Governor

By the Governor:

  
\_\_\_\_\_  
DOUGLAS LA FOLLETTE  
Secretary of State





State of Wisconsin  
Department of Health Services

Tony Evers, Governor  
Andrea Palm, Secretary

**EMERGENCY ORDER #28**  
**Safer at Home Order**

**WHEREAS**, in December, 2019, a novel strain of the coronavirus was detected, now named COVID-19, and it has spread throughout the world, including every state in the United States;

**WHEREAS**, on January 30, 2020, the World Health Organization declared COVID-19 to be a Public Health Emergency of International Concern;

**WHEREAS**, on March 12, 2020, Governor Tony Evers declared a public health emergency and directed all agencies support to efforts to respond to and contain COVID-19 in Wisconsin;

**WHEREAS**, on March 13, 2020, President Donald Trump proclaimed a National Emergency concerning COVID-19;

**WHEREAS**, as of April 15, 2020, 1,914,916 people around the world have tested positive for COVID-19, including 605,390 in the United States and 3,721 in Wisconsin;

**WHEREAS**, COVID-19 is present throughout Wisconsin, with people testing positive for COVID-19 in 65 of 72 counties as of April 15, 2020;

**WHEREAS**, on March 24, 2020, I, Andrea Palm, Secretary-designee of the Wisconsin Department of Health Services, issued Emergency Order #12, Safer at Home Order (hereinafter "Safer at Home Order"), requiring that everyone in Wisconsin stay at their home or place of residence except in limited circumstances;

**WHEREAS**, the Safer at Home Order is working to flatten the curve of infections of COVID-19 in Wisconsin, and we have started to see meaningful gains from this proactive step;

**WHEREAS**, when the Safer at Home Order was issued, the number of people testing positive for COVID-19 in Wisconsin was doubling every 3.4 days and, as of April 14, 2020, the rate of doubling is now approximately 12 days;

**WHEREAS**, according to the model created by DHS, Wisconsin was projected to have between 440 and 1,500 deaths from COVID-19 by April 8th. These numbers were based on projected significant exponential growth in

positive cases; however, since the Safer at Home Order, there has been a decrease in exponential growth in the number of cases and by April 8th, Wisconsin only had 99 deaths;

**WHEREAS**, like our neighbor states, Wisconsin will need to continue to stay safer at home to prevent spikes in COVID-19 cases that could further strain our health care system and risk more lives;

**WHEREAS**, our critical workers are on the front lines working to provide health care, keep our grocery stores open, clean, and stocked, farm our lands, and ensure our infrastructure is maintained;

**WHEREAS**, in this time of Safer at Home, it is extremely important that we continue to respect all our residents and workers of this state, without stigmatizing or calling out any group of people, especially those who have contracted or been exposed to COVID-19;

**WHEREAS**, medical and public health experts advise that this is the crucial moment in Wisconsin for us to flatten the curve and prevent the worst-case situations we have seen in other parts of the country and the world;

**WHEREAS**, as we work to slow the virus, we need to also work to carefully and thoughtfully speed up our economy;

**WHEREAS**, people all over the state have made great sacrifices with their businesses and incomes;

**WHEREAS**, as we continue to be safer at home, we also must find creative ways to get businesses and employees back on their feet in a way that will not sacrifice our progress in fighting the spread of COVID-19; and

**WHEREAS**, when deciding whether to extend the Safer at Home Order, the administration considered the rate of spread of COVID-19 in Wisconsin; the health care capacity to meet the needs of the state; the testing, contact tracing, and isolation capacity in the state; the availability of personal protective equipment for healthcare workers, first responders, and other public servants that are required to perform face-to-face services; and the economic needs of Wisconsin and Wisconsinites.

**NOW THEREFORE, I, Andrea Palm**, Department of Health Services Secretary-designee, by the authority vested in me by the Laws of the State, including but not limited to Section 252.02(3), (4), and (6) of the Wisconsin Statutes, order the following:

- 1. Stay at home or place of residence.** All individuals present within the State of Wisconsin are ordered to stay at home or at their place of

residence, with exceptions outlined below. To the extent individuals are using shared or outdoor spaces other than their home or residence, they must at all times as reasonably possible maintain social distancing of at least six (6) feet from any other person consistent with Social Distancing Requirements as defined below, except that they do not need to maintain social distancing between individuals residing in a single living unit or household. Individuals may leave their homes or residences only for the following functions as are defined in this Order:

- a. **Essential Activities** (defined in section 11);
- b. **Essential Governmental Functions** (defined in section 12);
- c. To operate **Essential Businesses and Operations** (defined in section 13);
- d. To perform non-essential **Minimum Basic Operations** (defined in section 14);
- e. **Essential Travel** (defined in section 15); and
- f. **Special Situations** (defined in section 8, 9, and 10).

Individuals experiencing homelessness are exempt from this Section, but are strongly urged to obtain shelter. Governmental and other entities are strongly urged to make such shelter available as soon as possible to the maximum extent practicable and to follow the Wisconsin Department of Public Health (DHS) and the U.S. Centers for Disease Control and Prevention (CDC) guidance on COVID-19 risk mitigation practices.

Individuals whose homes or residences are unsafe or become unsafe, such as victims of domestic violence, are permitted and urged to leave their home and stay at a safe alternative location. For purposes of this Order, homes or residences include hotels, motels, shared rental units, dormitories, shelters, and similar facilities.

## **2. Business operations**

- a. **Non-essential business and operations must cease.** All for-profit and non-profit businesses with a facility in Wisconsin, except Essential Businesses and Operations as defined below, must cease all activities at facilities located within Wisconsin, except:

- i. Minimum Basic Operations, as defined below.

- ii. Any operations consisting exclusively of employees or contractors performing activities at their own home or residences (i.e., working from home).

**b. Safe Business Practices**

- i. All businesses, including Essential Businesses and Operations, shall:
  - 1. To the greatest extent feasible, use technology to avoid meeting in person, including virtual meetings, teleconference, and remote work (i.e. work from home).
  - 2. Cease door-to-door solicitation.
- ii. Essential Businesses and Operations are encouraged to remain open. Essential businesses and operations shall:
  - 1. To the greatest extent feasible, comply with Social Distancing Requirements as defined in this Order between all individuals on the premises, including but not limited to employees, customers, and members of the public.
  - 2. Restrict the number of workers present on premises to no more than is strictly necessary to perform the essential operation.
  - 3. Increase standards of facility cleaning and disinfection to limit worker and patron exposure to COVID-19, as well as adopting protocols to clean and disinfect in the event of a positive COVID-19 case in the workplace.
  - 4. Adopt policies to prevent workers from entering the premises if they display respiratory symptoms or have had contact with a person with a confirmed diagnosis of COVID-19.
- iii. Essential Businesses or Operations that remain open for in-person sales, including retail stores, shall:
  - 1. Consider establishing curbside pick-up to reduce in-store traffic and mitigate outdoor lines.



- 2. For stores with less than 50,000 square feet of customer floor space, limit the number of people in the store (including employees) to 25% of the total occupancy limits established by the local municipality.
  3. For stores of more than 50,000 square feet:
    - a. Limit the number of customers in the store at one time (excluding employees) to 4 people per 1,000 square feet of customer floor space.
    - b. Offer at least two hours per week of dedicated shopping time for vulnerable populations, which for purposes of this Order are people over 60, pregnant women, and those with chronic conditions like heart disease, diabetes, and lung disease.
  4. Establish lines to regulate entry in accordance with occupancy restrictions in sections 2.b.iii.2. and 2.b.iii.3., with markings for patrons to enable them to stand at least six feet apart from one another while waiting. Stores should also use alternatives to lines, including allowing customers to wait in their cars for a text message or phone call and scheduling pick-ups or entries to the store.
3. **Prohibited activities.** All public and private gatherings of any number of people that are not part of a single household or living unit are prohibited, except for the limited purposes expressly permitted in this Order. Nothing in this Order prohibits the gathering of members of a single household or living unit. Landlords or rental property managers shall avoid entering leased residential premises unless emergency maintenance is required.
4. **Closures.** All of the following facilities shall be closed:
  - a. **Schools.** Public and private K-12 schools shall remain closed for pupil instruction and extracurricular activities for the remainder of the 2019-2020 school year. Schools may continue to facilitate distance learning or virtual learning. Schools may continue to be used for Essential Government Functions and food distribution. This section does not apply to facilities operated by the Wisconsin Department of Corrections.

**b. Libraries.** Public libraries shall remain closed for all in-person services, except that they may provide the following services:

- i.** On-line services and programming.
- ii.** Curb-side pick-up of books and other library materials, if all operations are performed by one person in a room or confined space. Materials must be requested online or by phone before pick-up. The library may not require a signature from the patron. The library must schedule pick-ups to ensure compliance with Social Distancing Requirements as defined in Section 16 of the Safer at Home Order.
- iii.** Any Essential Governmental Function.
- iv.** Food distribution.

**c. Places of public amusement and activity.** Whether indoors or outdoors, places of public amusement and activity are closed, including but not limited to amusement parks, carnivals, water parks, licensed public or private swimming pools, splash pads, aquariums, zoos, museums, arcades, fairs, children's play centers, playgrounds, funplexes, theme parks, bowling alleys, movie and other theaters, concert and music halls, country clubs, social clubs, and gyms and fitness centers. The following exceptions apply:

- i.** Public and private golf courses may open, with the following restrictions:
  - 1.** The use of golf carts is prohibited.
  - 2.** Social Distancing Requirements must be observed at all times, unless the players reside in the same living unit or household.
  - 3.** All tee times and payments must be made in advance online or by phone.
  - 4.** Clubhouses and pro shops must remain closed. Any restaurant or bar facility may remain open and must comply with all restrictions in Section 13.d. and 13.e. of this Order.
  - 5.** Tee times must be spaced to avoid multiple foursomes from clustering or gathering at any stage of the course.
  - 6.** All maintenance work and groundskeepers shall comply with Section 2.b.i. and 2.b.ii. of this Order. All other functions may only continue under Minimum Basic Operations.
  - 7.** Driving ranges and miniature golf must remain closed.

ii. Public parks and open space may be closed at the discretion of the local health officials, if any of the following occur:

1. The number of people frequenting the area at one time makes it difficult to comply with Social Distancing Requirements.
2. Repeated vandalism or disturbing the peace.
3. Repeated violations of the Safer at Home Order that create a risk to individuals in the area.
4. The local government does not have the ability to monitor or enforce Social Distancing Requirements.

d. **Salons and spas.** This includes, but is not limited to, hair salons, barber shops, nail salons, day spas, electrolysis providers, waxing salons, eyebrow-care establishments, tattoo parlors, body art establishments, and tanning facilities.

5. **Prohibited and permitted travel.** All forms of travel are prohibited, except for Essential Travel as defined in this Order. Individuals riding on public transit must comply with Social Distancing Requirements to the greatest extent possible.

6. **Follow DHS and CDC guidelines.** When taking any action permitted under this Order, all individuals, organizations, government bodies, and any other permitted group of individuals shall, to the extent possible, follow DHS guidelines located here: <https://www.dhs.wisconsin.gov/covid-19/index.htm>.

All Essential Businesses and Operations and all businesses performing Minimum Basic Operations shall comply with DHS guidelines for businesses located here: <https://www.dhs.wisconsin.gov/covid-19/employers.htm>.

7. **Elderly people and those who are vulnerable as a result of underlying health conditions should take additional precautions.** People at high risk of severe illness from COVID-19 and people who are sick are urged to stay in their home or residence to the extent possible except as necessary to seek medical care. Nothing in this Order prevents DHS and local health officials from issuing and enforcing isolation and quarantine orders pursuant to Wis. Stat. ch. 252 and local ordinances.

## **SPECIAL SITUATIONS**

- 8. Healthcare and Public Health Operations.** For purposes of this Order, individuals may leave their residence to work for or obtain services at any Healthcare and Public Health Operations.

Healthcare and Public Health Operations includes, but is not limited to: hospitals; medical facilities; clinics; ambulatory surgery centers for response to urgent health issues or related COVID-19 activities; manufacturers, technicians, logistics, and warehouse operators and distributors of medical equipment, personal protective equipment (PPE), medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing disinfecting or sterilization supplies, and tissue and paper towel products; dental offices; pharmacies; public health entities, including those that compile, model, analyze, and communicate public health information; pharmaceutical, pharmacy, medical device and equipment, and biotechnology companies (including operations, research and development, manufacture, and supply chain); healthcare information technology companies; organizations collecting blood, platelets, plasma, and other necessary materials; obstetricians, gynecologists, and midwife practices; eye care centers, including those that sell glasses and contact lenses; home health agencies and providers; mental health and substance abuse providers; detoxification and alcohol or drug treatment programs and facilities; syringe access programs, and naloxone distribution programs; other healthcare facilities and suppliers and providers of any related or any ancillary healthcare services; entities that transport and dispose of medical materials and remains; personal care agencies; hospices; allied health providers; acupuncturists; massage therapists; chiropractors; and adult family homes.

Specifically included in Healthcare and Public Health Operations are manufacturers, technicians, logistics, and warehouse operators and distributors of medical equipment, personal protective equipment (PPE), medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing disinfecting or sterilization supplies, and tissue and paper towel products.

Healthcare and Public Health Operations also includes veterinary care and all healthcare services provided to animals. Non-essential veterinary care should be avoided.

Cafeterias and food service in health care facilities may remain open for staff and authorized visitors only, subject to the following restrictions:

- a.** Self-service operations of salad bars, beverages stations, and buffets are prohibited.

- b. Customers are prohibited from self-dispensing any unpackaged food or beverage.
- c. Customers and staff shall comply with Social Distancing Requirements, including in seating areas and lines.

Healthcare and Public Health Operations shall be broadly construed to avoid any impediments to the delivery of healthcare, broadly defined. Healthcare and Public Health Operations does not include fitness and exercise gyms, hair salons, barber shops, nail salons, day spas, electrolysis providers, tattoo parlors, body art establishments, tanning facilities, and similar facilities.

- 9. Human Service Operations.** For purposes of this Order, individuals may leave their residence to work for or obtain services at any state, institutional, or community-based setting providing human services to the public.

Human Service Operations includes, but is not limited to: long-term care and assisted living facilities, as long as the facility follows all current DHS Recommendations for Prevention of COVID-19 in Long-Term Facilities and Assisted Living Facilities and all applicable U.S. Centers for Disease Control Recommendations; residential settings and shelters for adults, seniors, children, victims of domestic abuse, people with disabilities, people with substance use disorders, or mental illness; transitional facilities; home-based settings to provide services to individuals with physical, intellectual, or developmental disabilities, seniors, adults, or children; adult day care, adult day services, and supportive home care; field offices that provide and help to determine eligibility for basic needs including food, cash assistance, medical coverage, vocational services, or rehabilitation services; developmental centers; adoption agencies; businesses that provide food, shelter, social services, or other necessities of life for economically disadvantaged individuals, individuals with physical, intellectual, or developmental disabilities, or otherwise needy individuals.

Human Services Operations shall be construed broadly to avoid any impacts to the delivery of human services, broadly defined.

- 10. Essential Infrastructure.** For purposes of this Order, individuals may leave their residence to provide any services or perform any work necessary to offer, provide, operate, maintain, and repair Essential Infrastructure.

Essential Infrastructure includes, but is not limited to: food production, distribution, fulfillment centers, storage facilities, marinas, and sales; construction (including, but not limited to, construction required in

response to this public health emergency, hospital construction, construction of long-term care and assisted living facilities, public works construction, school construction, Essential Business and Operations construction, construction necessary for Essential Governmental Functions, and housing construction, except that optional or aesthetic construction should be avoided except as permitted as a Minimum Basic Operation); building management and maintenance; airport operations; operation and maintenance of utilities, including water, sewer, gas, and electric (including power generation, distribution, production of raw materials, and Wisconsin Department of Natural Resources-certified and registered drinking water and wastewater testing laboratories); Wisconsin Home Energy Assistance, Low Income Home Energy Assistance Program, and Public Benefits Energy Assistance Program offices, customer service centers, and public intake centers; distribution centers; oil and biofuel refining; roads, highways, railroads, and public transportation; ports; cybersecurity operations; flood control; solid waste and recycling collection and removal; and internet, video, and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services).

Essential Infrastructure shall be construed broadly to avoid any impacts to essential infrastructure, broadly defined.

## **DEFINITIONS**

**11. Essential Activities.** Individuals may leave their home or residence to perform any of the following:

- a. Health and safety.** To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members, including pets, such as, by way of example only and without limitation, obtaining medical supplies or medication, seeking emergency services, or visiting a health care or behavior health care professional. Individuals should rely on telehealth options whenever feasible.
- b. Necessary supplies and services.** To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example only and without limitation: canned food, dry goods, fresh fruits and vegetables, gasoline, propane, pet supply, fresh meats, fish, and poultry, and any other household consumer products, and products necessary to maintain the safety, sanitation, and essential operation of residences.

- c. Outdoor activity.** To engage in outdoor activity, including visiting public and state parks, provided individuals comply with Social Distancing Requirements as defined below. Such activities include, by way of example and without limitation, walking, biking, hiking, or running. Individuals may not engage in team or contact sports such as by way of example and without limitation, basketball, ultimate frisbee, soccer, or football, as these activities do not comply with Social Distancing Requirements. Playgrounds are closed.
- d. Certain types of work.** To perform work at Essential Businesses or Operations or to otherwise carry out activities specifically permitted in this Order, including Minimum Basic Operations and obtaining supplies needed to work from home.
- e. Take care of others.** To care for a family member, friend, or pet in another household, and to transport family members, friends, or pets as allowed in this Order.

**12. Essential Governmental Functions.** Essential Governmental Functions means all services provided by the State, Tribal, or local governments needed to ensure the continuing operation of the government body and provide and support the health, safety, and welfare of the public. Each government body shall determine its Essential Government Function, if any, and identify employees and contractors necessary to the performance of those functions.

For purposes of this Order, all paid or volunteer first responders including law enforcement, EMS, and firefighters; first responder training academies; building inspectors; emergency management personnel; emergency dispatchers; court personnel, jurors and grand jurors; corrections personnel; hazardous materials responders; child protection and child welfare personnel; housing and shelter personnel; National Guard and military; and others working for or to support Essential Businesses and Operations are categorically exempt from this Order.

This section does not limit the ability or authority of the Wisconsin Supreme Court to use its constitutional supervisory authority over lower courts to limit or adjust court functions in response to the Public Health Emergency. This section does not limit the ability or authority of the Wisconsin Legislature to meet or conduct business.

Government bodies should continue to follow the Wisconsin Department of Justice's Office of Open Government guidance regarding holding government meetings and should consult directly with that office



regarding specific open meetings questions. The guidance is available here: [https://www.doj.state.wi.us/sites/default/files/news-media/3.20.20\\_OOG\\_Final.pdf](https://www.doj.state.wi.us/sites/default/files/news-media/3.20.20_OOG_Final.pdf). Government bodies with additional questions about open meetings requirements should consult with the Wisconsin Department of Justice's Office of Open Government.

**13. Essential Businesses and Operations.** For the purposes of this Order, Essential Businesses and Operations means Healthcare and Public Health Operations, Human Services Operations, Essential Infrastructure, and Essential Governmental Functions, and the following:

- a. CISA List.** Any business or worker identified in the U.S. Department of Homeland Security, Cybersecurity & Infrastructure Security Agency (CISA), *Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response*, updated March 23, 2020, and any subsequent versions of this Memorandum.
- b. Stores that sell groceries and medicine.** Grocery stores, bakeries, pharmacies, farm and produce stands, supermarkets, food banks and food pantries, convenience stores, and other establishments engaged in the retail sale of groceries, canned food, dry goods, frozen foods, fresh fruits and vegetables, pet supply, fresh meats, fish, poultry, prepared food, alcoholic and non-alcoholic beverages, and any other household consumer products (such as cleaning and personal care products). Such establishments shall:
  - i.** Close all seating intended for consuming food.
  - ii.** Cease any self-service operations of salad bars, beverage stations, and buffets.
  - iii.** Except for grocery stores, prohibit customers from self-dispensing all unpackaged food.
  - iv.** Abide by Social Distancing Requirements.

This section should not be interpreted to provide an exemption for businesses engaged in the sale of food or beverage ancillary to its primary purpose, such as those businesses required to close under Section 4 who also may engage in some food or beverage sales.

- c. Food and beverage production, transport, and agriculture.** Food and beverage manufacturing, production, processing, transportation, and cultivation; farming, livestock, fishing,



baking, and other production agriculture, including cultivation, marketing, production, and distribution of animals and goods for consumption; businesses that provide food, shelter, and other necessities of life for animals, including animal shelters, boarding, rescues, kennels, and adopting facilities; farm and agriculture equipment, supplies, and repair services.

**d. Restaurants.** Restaurants shall close, except as follows:

- i.** Restaurants may remain open for food take-out or delivery service only.
- ii.** Alcohol sales must comply with section 13.e. below.
- iii.** Customers may enter the above establishments only for the purpose of ordering, pick up, and paying for food or beverage or both.
- iv.** No seating may be provided.
- v.** Food and drink may not be consumed on premises, either indoors or outdoors.
- vi.** Establishments shall meet Social Distancing Requirements between all individuals on the premises to the extent possible.
- vii.** Cease any self-service operations of salad bars, beverage stations, and buffets.
- viii.** Customers are prohibited from self-dispensing any unpackaged food or beverage.

**e. Bars.** This includes breweries, brewpubs, wineries, distilleries, and alcohol beverage retailers. Such establishments shall close, except as follows:

- i.** Carryout sales of alcohol beverages and food are allowed, if permitted by state law and municipal ordinance.
- ii.** Delivery of alcohol beverages to retail customers is prohibited.
- iii.** Wineries holding direct wine shippers' permits may make deliveries of wine in accordance with their permit.
- iv.** Customers may enter the above establishments only for the purpose of ordering, pick up, and paying for food or beverage or both.
- v.** No seating may be provided.
- vi.** Food and drink may not be consumed on premises, either indoors or outdoors.
- vii.** Establishments shall meet Social Distancing Requirements between all individuals on the premises to the extent possible.

- viii.** Self-service operations of salad bars, beverage stations, and buffets are prohibited.
- ix.** Customers are prohibited from self-dispensing any unpackaged food or beverage.

**f. Child care settings.** Secretary-designee Andrea Palm's Emergency Order #6 remains in effect, with the following amendments:

**i.** Child care settings shall prioritize care for families as follows:

1. Tier 1: employees, contractors, and other support staff working in health care;
2. Tier 2: employees, contractors, and other staff in vital areas including but not limited to military; long term care; residential care; pharmacies; child care; child welfare; government operations; public safety and critical infrastructure such as sanitation, transportation, utilities, telecommunications; grocery and food services; supply chain operations; and other sectors as determined by the Secretary of the Department of Children and Families.

**ii.** Child care settings include all licensed and certified child care providers who may provide care for any age or ages of children up to 13 years of age, unless specially licensed for children with disabilities up to 19 years of age.

**g. Organizations that provide charitable and social services.**

Businesses and religious and secular nonprofit organizations, including prevocational group supportive employment, food banks and food pantries, when providing food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals, individuals who need assistance as a result of this public health emergency, and people with disabilities.

**h. Weddings, funerals, and religious entities.** Religious facilities, entities, groups, and gatherings, and weddings and funerals, except that any gathering shall include fewer than 10 people in a room or confined space at a time and individuals shall adhere to Social Distancing Requirements as much as possible.

- i. Funeral establishments.** Funeral establishments, as defined in Wis. Stat. § 445.01(6), except that any gathering shall include fewer than 10 people in a room or confined space at a time and individuals shall adhere to Social Distancing Requirements as much as possible.
- j. Media.** Newspapers, television, radio, and other media services.
- k. Gas stations and businesses needed for transportation.** Gas stations; auto and motorcycle supply, repair and sales; boat supply, repair, and sales; and bicycle supply, repair, and sales.
- l. Financial institutions and services.** Banks, credit unions, and other depository or lending institutions; licensed financial service providers; insurance services; personnel necessary to perform essential functions at broker dealers and investment advisor offices.
- m. Hardware and supplies stores.** Hardware stores and businesses that sell electrical, plumbing, heating, and construction material.
- n. Critical trades.** Building and Construction Tradesmen and Tradeswomen, and other trades including but not limited to plumbers, electricians, carpenters, laborers, sheet metal, iron workers, masonry, pipe trades, fabricators, finishers, exterminators, pesticide application, cleaning and janitorial staff for commercial and governmental properties, security staff, operating engineers, HVAC, painting, moving and relocation services, forestry and arborists, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, Essential Activities, Essential Governmental Functions, and Essential Businesses and Operations.
- o. Mail, post, shipping, logistics, delivery, and pick-up services.** Post offices and other businesses that provide shipping and delivery services, and businesses that ship or deliver groceries, food, beverages, goods or services to end users or through commercial channels.
- p. Laundry services.** Laundromats, dry cleaners, industrial laundry services, and laundry service providers.

- q. Supplies to work from home.** Businesses that sell, manufacture, or supply products needed for people to work from home.
- r. Supplies for Essential Businesses and Operations and Essential Governmental Functions.** Businesses that sell, manufacture, or supply other Essential Businesses and Operations and Essential Governmental Functions with the support or supplies necessary to operate, including computers; audio and video electronics; household appliances; IT and telecommunication equipment; hardware; paint; flat glass; electrical, plumbing, and heating materials; construction materials and equipment; sanitary equipment; personal hygiene products; food, food additives, ingredients, and components; medical and orthopedic equipment; firearm and ammunition suppliers and retailers for purposes of safety and security; optics and photography equipment; diagnostic; food and beverages; chemicals; paper and paper products; soaps and detergents.

Any business or operation that is considered an Essential Business or Operation under this section may only perform those business operations which are necessary for the Essential Business and Operations or Essential Governmental Functions to which they are supplying goods or services. Any non-essential goods or services may only continue as Minimum Basic Operations.

- s. Transportation.** Airlines, taxis, transportation network providers (such as Uber and Lyft), vehicle rental services, paratransit, and other private, public, and commercial transportation and logistics providers necessary for Essential Activities and other purposes expressly authorized in this Order.
- t. Home-based care and services.** Home-based care for seniors, adults, children, or people with disabilities, substance use disorders, or mental illness, including caregivers or nannies who may travel to the child's home to provide care, and other in-home services including meal delivery.
- u. Professional services.** Professional services, such as legal or accounting services, insurance services, real estate services (including appraisal, home inspection, and title services). These services shall, to the greatest extent possible, use technology to avoid meeting in person, including virtual meetings, teleconference, and remote work (i.e. work from home).

- v. Manufacture, distribution, and supply chain for critical products and industries.** Manufacturing companies, distributors, and supply chain companies producing and supplying essential products and services in and for industries such as pharmaceutical, technology, biotechnology, healthcare, chemicals and sanitation, waste pickup and disposal, agriculture, food and beverage, transportation, energy, steel and steel products, petroleum and fuel, mining, construction, national defense, communications, and products used by other Essential Governmental Functions and Essential Businesses and Operations.

Any business or operation that is considered an Essential Business or Operation under this section may only perform those business operations which are necessary for the Essential Business and Operations or Essential Governmental Functions to which they are supplying goods or services. Any non-essential goods or services may only continue as Minimum Basic Operations.

- w. Critical labor union functions.** Essential activities include the administration of health and welfare funds and personnel checking on the well-being and safety of members providing services in Essential Business and Operations, provided the checks are done by telephone or remotely where possible.

- x. Hotels and motels.** Hotels and motels, except that such establishments shall:

**i.** Comply with requirements of 13.b, 13.d. and 13.e.

**ii.** Close swimming pools, hot tubs, and exercise facilities.

**iii.** Prohibit guests from congregating in lobbies or other common areas, including providing adequate space to adhere to Social Distancing Requirements while queuing for front desk services.

- y. Higher educational institutions.** Higher educational institutions, for purposes of facilitating distance learning, performing critical research, or performing essential functions as determined by the institution.

- z. WEDC designated businesses.** In the exceptional circumstance that a business is not listed in this Order as an Essential Business or Operations but believes that it should be included in that designation, the business should consult the information page on the Wisconsin Economic Development Corporation (WEDC) website, here: [www.wedc.org/nonessentialbusiness](http://www.wedc.org/nonessentialbusiness). If a business still believes that it does not fall within the meaning of Essential Businesses and Operations, it may apply to the Wisconsin Economic Development Corporation (WEDC) using the provided form requesting designation as such.

**14. Minimum Basic Operations.** For the purposes of this Order, Minimum Basic Operations include the following, provided that employees comply with Social Distancing Requirements, to the extent possible, while carrying out such operations:

- a. Basic functions.** The minimum necessary activities to maintain the value of the business's inventory, preserve the condition of the business's physical plant and equipment, ensure security, process payroll and employee benefits, or for related functions, including where these functions are outsourced to other entities.
- b. Facilitating remote work.** The minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences.
- c. Employee designation.** Non-essential businesses and operations must determine which of their workers are necessary to conduct Minimum Basic Operations and inform such workers of that designation.
- d. Delivery and mailings.** Minimum Basic Operations may include fulfilling nonessential deliveries, mailing parcels, or receiving parcels if all of the operations are performed by one person in a room or confined space, including a car or truck. Delivery or parcel services may not require a signature by the recipient. Suppliers to non-essential businesses and supply chains for non-essential businesses are non-essential and shall only operate under Minimum Basic Operations to provide goods or services to other non-essential businesses operating under this section.
- e. Curb-side pick-up.** Minimum Basic Operations may include curb-side pick-up of goods, if all of the operations are performed by one person in a room or confined space at a time, including a car or truck. Goods must be purchased online or by phone before

pick-up. The goods must be pre-packaged by the manufacturer, distributor, or store. The store may not require a signature by the customer. The store must schedule pick-ups to ensure compliance with Social Distancing Requirements as defined in section 16 of the Safer at Home Order. Suppliers to non-essential businesses and supply chains for non-essential businesses are non-essential and shall only operate under Minimum Basic Operations to provide goods or services to other non-essential businesses operating under this section.

**f. Arts and craft stores.** Arts and craft stores may offer curbside pick-up as described in section 14.e. More than one staff member, but no more than the minimum number of staff necessary, may work at the store solely for filling orders for materials for making personal protective equipment (i.e. homemade facemasks). The additional staff allowed in this section may not sell, package, or assist in any way with the sale of items not necessary for making personal protective equipment. All staff working to fulfill or process orders for personal protective equipment must comply with all requirements in Section 2.b.i. and 2.b.ii. of this Order.

**g. Aesthetic or optional exterior work.** Minimum Basic Operations may include aesthetic or optional exterior residential construction and lawn care, if all the operations are performed by one person in a room or confined space, including a car or truck. No more than one employee or worker may be on the site at a time. Services may not require a signature by the recipient. Aesthetic or optional exterior work requiring more than one person on the site are prohibited.

**15. Essential Travel.** Individuals are strongly encouraged to remain at their primary residence or home. Travel to second homes or residences should be avoided if possible. Consistent with federal guidance and to protect our neighboring states, Wisconsin residents are encouraged to stay close to home and strongly discouraged from engaging in unnecessary travel. Individuals engaged in any Essential Travel must comply with Social Distancing Requirements to the extent possible. For the purposes of this Order, Essential Travel includes:

**a.** Any travel related to the provision of or access to Essential Activities, Special Situations, Essential Governmental Functions, Essential Businesses and Operations, or Minimum Basic Operations.

- b.** Travel to care for elderly, minors, dependents, persons with disabilities, or other vulnerable persons.
- c.** Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, or any other related services.
- d.** Travel to return to a place of residence from outside the jurisdiction.
- e.** Travel required by law enforcement or court order, including to transport children pursuant to a custody agreement.
- f.** Travel required for non-residents to return to their place of residence outside Wisconsin. Individuals are strongly encouraged to verify that their transportation out of Wisconsin remains available and functional prior to commencing such travel.

**16. Social Distancing Requirements.** For purposes of this Order, Social Distancing Requirements includes:

- a.** Maintaining social distancing of six (6) feet between people;
- b.** Washing hands with soap and water for at least 20 seconds as frequently as possible or using hand sanitizer;
- c.** Covering coughs or sneezes (into the sleeve or elbow, not hands);
- d.** Regularly cleaning high-touch surfaces;
- e.** Not shaking hands; and
- f.** Following all other public health recommendations issued by DHS and the U.S. Centers for Disease Control.

## **ENFORCEMENT AND APPLICABILITY**

**17. Tribal Nations.**

- a.** Activities by Tribal members within the boundaries of their Tribal reservations and federal land held in trust for any one of the eleven federally recognized Tribes in Wisconsin are exempt from the restrictions in this Order but may be subject to restrictions by tribal authorities.
- b.** Non-tribal members should be respectful of and avoid non-essential travel to Tribal territory.



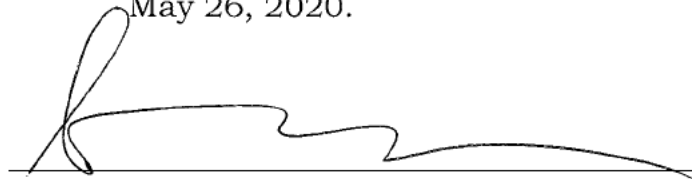
- c. Wisconsin's local governments shall coordinate, collaborate, and share information with the Tribal Nations in their region.

**18. Enforcement.** This Order is enforceable by any local law enforcement official, including county sheriffs. Violation or obstruction of this Order is punishable by up to 30 days imprisonment, or up to \$250 fine, or both. Wis. Stat. § 252.25.

**19. Severability.** If any provision of this Order or its application to any person or circumstance is held to be invalid, then the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

**20. Supremacy.** This Order supersedes any local order that is in conflict with this order.

**21. Duration.** This Order shall become effective at 8:00 a.m. on Friday, April 24, 2020. This Order shall remain in effect until 8:00 a.m. on Tuesday, May 26, 2020.



Andrea Palm  
Secretary-designee  
Department of Health Services

04/16/2020  
Date



State of Wisconsin  
Department of Health Services

Tony Evers, Governor  
Andrea Palm, Secretary

**EMERGENCY ORDER #31**  
**Badger Bounce Back**

**WHEREAS**, in December, 2019, a novel strain of the coronavirus was detected, now named COVID 19, and it has spread throughout the world, including every state in the United States;

**WHEREAS**, on January 30, 2020, the World Health Organization declared COVID 19 to be a Public Health Emergency of International Concern;

**WHEREAS**, on March 12, 2020, Governor Tony Evers declared a public health emergency and directed all agencies support efforts to respond to and contain COVID 19 in Wisconsin;

**WHEREAS**, on March 13, 2020, President Donald Trump proclaimed a National Emergency concerning COVID 19;

**WHEREAS**, as of April 19, 2020, 2,241,359 people around the world have tested positive for COVID 19, including 690,714 in the United States and 4,346 in Wisconsin;

**WHEREAS**, COVID 19 is present throughout Wisconsin, with people testing positive for COVID 19 in 65 of 72 counties as of April 19, 2020;

**WHEREAS**, on March 24, 2020, I, Andrea Palm, Secretary designee of the Wisconsin Department of Health Services, issued Emergency Order #12, Safer at Home Order (hereinafter "Safer at Home Order"), requiring that everyone in Wisconsin stay at their home or place of residence except in limited circumstances;

**WHEREAS**, on April 16, 2020, I modified and extended the Safer at Home Order to allow businesses new opportunities to get back to work and added new measures to keep employees and customers safer;

**WHEREAS**, the Safer at Home Order is working to flatten the curve of infections of COVID 19 in Wisconsin, and we have started to see meaningful gains from this proactive step;

**WHEREAS**, we know that the Safer at Home Order is working to prevent spikes in COVID 19 cases that could further strain our health care system and risk more lives;

**WHEREAS**, with the progress Wisconsin has made in flattening the curve and slowing the spread of COVID-19, we must look ahead to plan for how Wisconsin will return to business as usual;

**WHEREAS**, President Donald Trump's Guidelines for Opening Up America Again, issued on April 16, 2020, offer a comprehensive and thoughtful approach to restarting the economy without sacrificing the public health gains we have made in fighting this disease;

**WHEREAS**, led by science, the public health facts on the ground, and guidance from the Federal government, this Order implements a phased approach for dialing down the restriction in the Safer at Home Order; and

**WHEREAS**, as we have seen, the public health situation can evolve quickly, and this phased approach will allow individuals and businesses as much relief as possible while accounting for the inherent uncertainties of this pandemic.

**NOW THEREFORE, I, Andrea Palm**, Department of Health Services Secretary-designee, by the authority vested in me by the Laws of the State, including but not limited to Section 252.02(3), (4), and (6) of the Wisconsin Statutes, order the following:

- 1. Phases.** Wisconsin shall adopt a phased approach to re-opening its economy and society, with each phase being incrementally less restrictive on businesses and individuals while protecting the public from COVID-19. The Department of Health Services shall announce the transition to each Phase with an order fully articulating the activities that will resume. The Phases include:
  - a. Safer at Home.** Currently in effect, as established in Emergency Orders #12 and #28.
  - b. Phase One.** Phase One will include allowing mass gatherings of up to 10 people; restaurants opening with social distancing requirements; removal of certain restrictions including retail restrictions for Essential Businesses and Operations; additional operations for non-essential businesses; K-12 schools to resume in-person operation; and child care settings resuming full operation.
  - c. Phase Two.** Phase Two will include allowing mass gatherings of up to 50 people; restaurants resuming full operation; bars reopening with social distancing requirements; non-essential businesses resuming operations with social distancing requirements; and post-secondary education institutions may resume operation.



- d. Phase Three.** Phase Three will resume all business activity and gatherings, with minimal protective and preventative measures in place for the general public and more protective measures for vulnerable populations.

**2. Progression through the Phases.** The Department of Health Services shall assess the most up-to-date data to determine when it is appropriate to progress to the next Phase. To move to the next Phase, the state must make progress toward the goals identified below as Core Responsibilities and meet the Gating Criteria.

- a. Core Responsibilities.** The state must show progress or advancement in the following areas:

- i. Testing.** Every Wisconsin resident who has symptoms of COVID-19 has access to a lab test. Results will be reported to the patient and public health officials within 48 hours of collection. The ultimate goal is 85,000 tests per week or approximately 12,000 tests per day.
- ii. Tracing.** Increase contact tracing by up to 1,000 people and implement technology solutions to ensure everyone who is infected or exposed will safely isolate or quarantine.
- iii. Tracking.** Building on systems used to track influenza and the COVID-19 pandemic, track the spread of COVID-19 and report on the Wisconsin Gating Criteria and other related metrics.
- iv. Personal Protective Equipment (PPE).** Procure PPE and other necessary supplies to support health care and public safety agencies.
- v. Health Care Capacity.** Assess the need for and readiness to support surge capacity for our healthcare system.

- b. Gating Criteria.** The state must meet the following Gating Criteria, based on state-wide public health data:

- i. Symptoms:**

- 1.** Downward trajectory of influenza-like illnesses reported within a 14-day period; and
  - 2.** Downward trajectory of COVID-19-like syndromic cases reported in a 14-day period.

**ii. Cases:** Downward trajectory of positive tests as a percent of total tests within a 14-day period.

**iii. Hospitals:**

1. Treatment of all patients without crisis care;
2. Robust testing programs in place for at-risk healthcare workers; and
3. Decreasing numbers of infected healthcare workers.

**3. Interim progress within a Phase.** In addition to progressing through each Phase above, the Department of Health Services, in consultation with the Wisconsin Economic Development Corporation, shall issue additional orders to reduce restrictions on certain businesses or sectors if it is determined that removing the restrictions will have minimal impact on the state's ability to meet its Core Responsibilities and Gating Criteria.

**4. Local orders.** The Department of Health Services, in consultation with local health officials, may address localized outbreaks with a localized order. Such order may include adjusting the Phase or instituting tailored restrictions based on the needs of a particular location, county, or region.

**5. Safer at Home remains in effect.** Nothing in this Order modifies, alters, or supersedes Emergency Orders #12 and #28, Safer at Home Order. However, orders instituting the phases under Section 2 and interim orders reducing restrictions under Section 3 may be issued prior to the expiration of Emergency Order #28, if appropriate under the criteria stated above.

**6. Severability.** If any provision of this Order or its application to any person or circumstance is held to be invalid, then the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

**7. Supremacy.** This Order supersedes any local order that is in conflict with this order.

  
\_\_\_\_\_  
Andrea Palm  
Secretary-designee  
Department of Health Services  
State of Wisconsin

04/20/2020  
\_\_\_\_\_  
Date

## EXHIBIT D

### New confirmed COVID-19 cases by date confirmed, and 7-day average

Updated: 8/20/2020

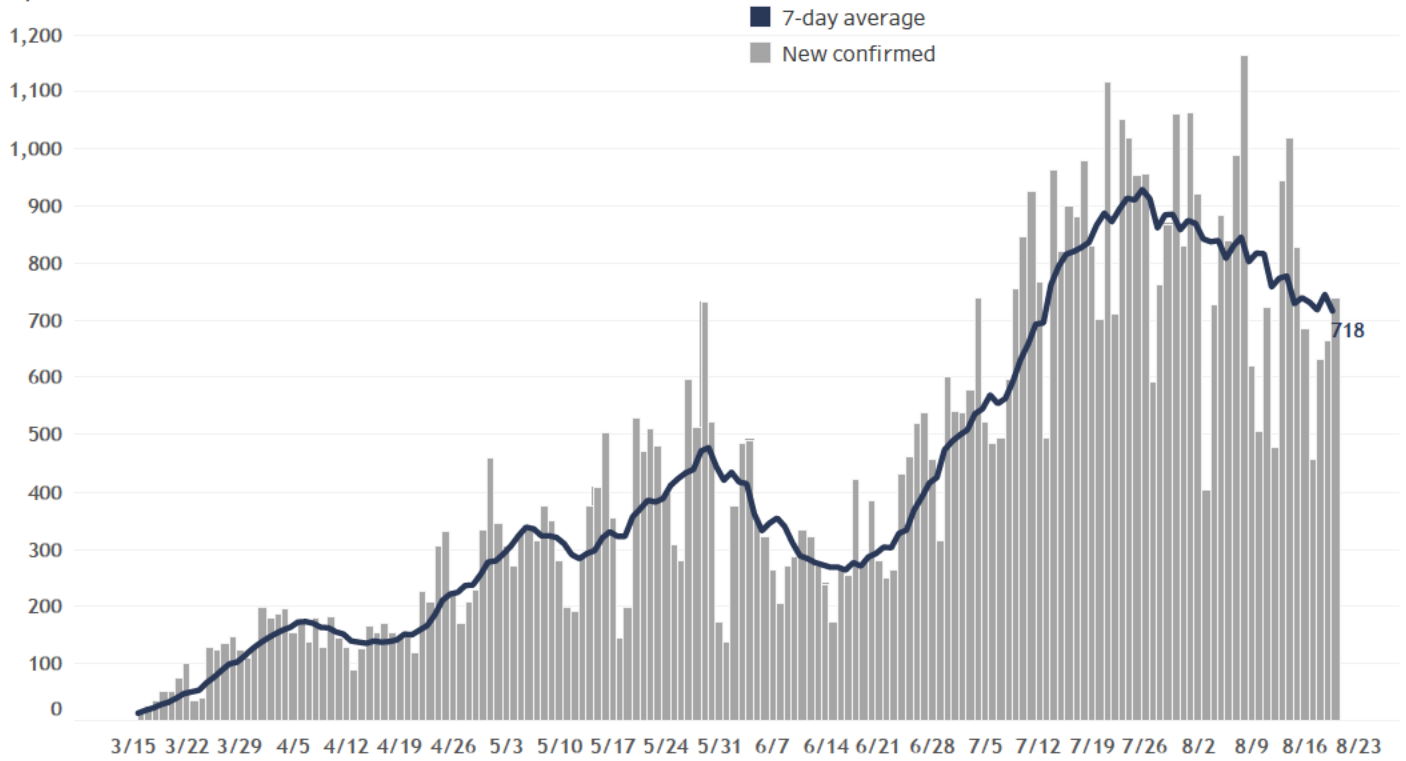
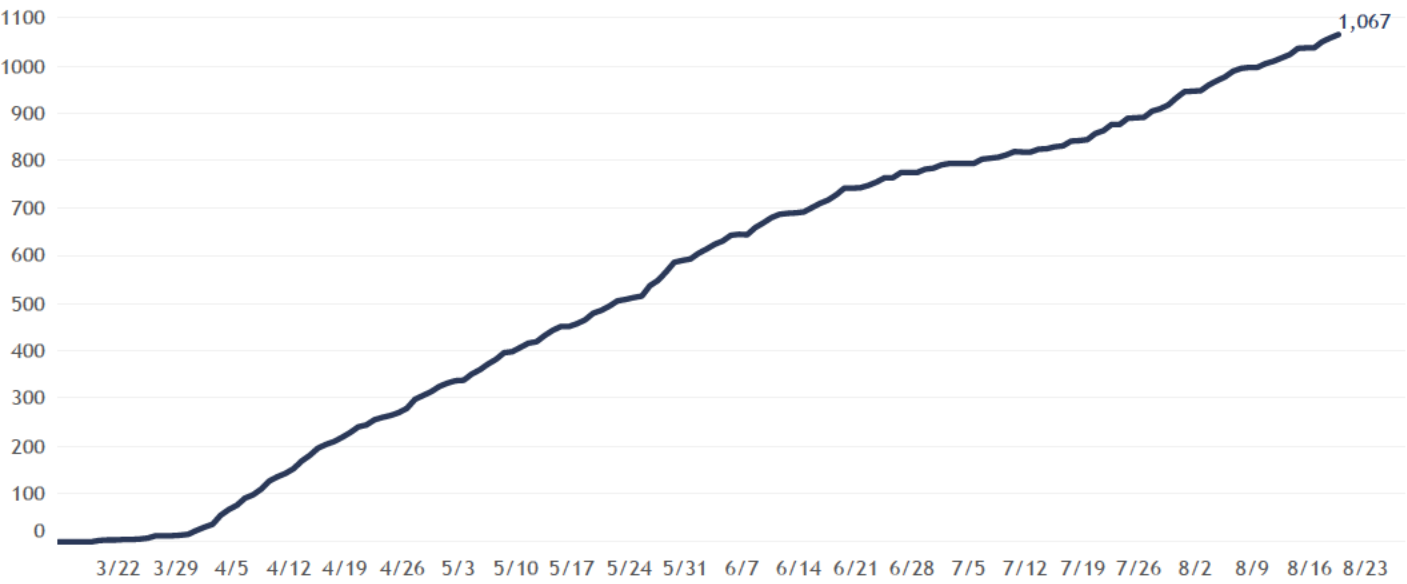


EXHIBIT E

Cumulative total deaths among confirmed COVID-19 cases by date reported

Updated: 8/20/2020







### EXECUTIVE ORDER #82

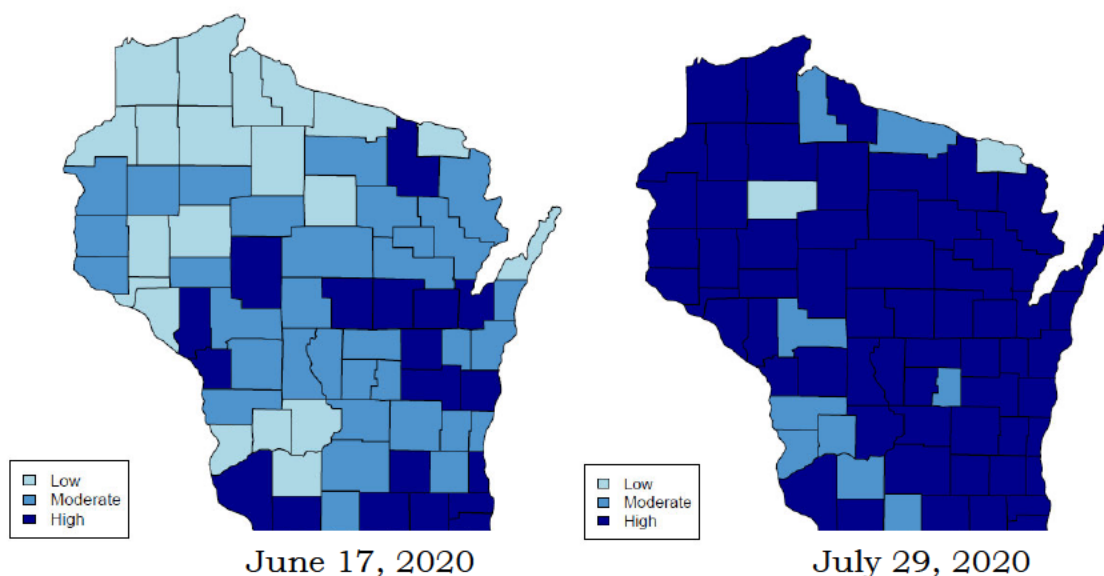
#### Relating to Declaring a Public Health Emergency

**WHEREAS**, the COVID-19 pandemic has impacted the lives of Wisconsinites throughout the state;

**WHEREAS**, despite the hard work Wisconsinites have done to slow the spread of COVID-19, data shows a new and concerning spike in infections;

**WHEREAS**, based on data collected by the Department of Health Services, the State of Wisconsin has experienced a drastic rise in COVID-19 cases throughout the entire state, with 61 of 72 counties (84 percent) representing 96 percent of the state's population experiencing high COVID-19 activity;

**WHEREAS**, this is a dramatic increase from where Wisconsin was in June, when only 19 of 72 counties (26%) were experiencing high COVID-19 activity, as depicted in the maps below:



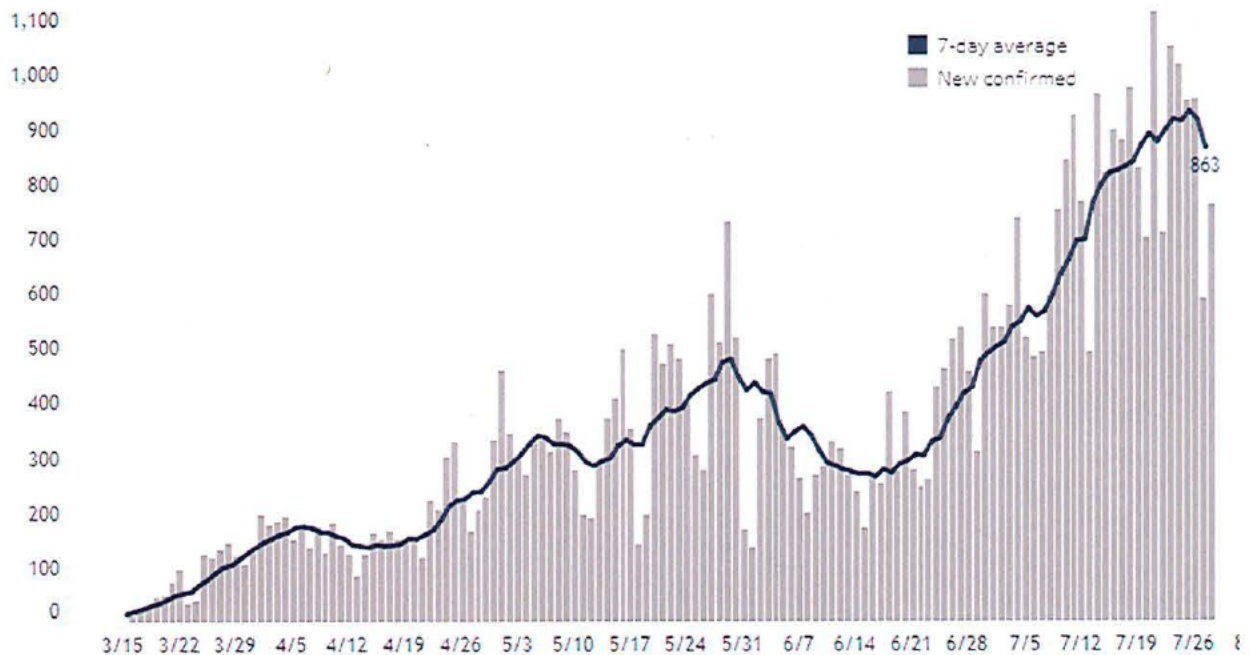
**WHEREAS**, on June 1, 2020, there were 18,543 confirmed cases of COVID-19 in Wisconsin; on July 1, 2020, there were 29,199 confirmed cases of COVID-19, a 57 percent increase from June 1; and on July 29, 2020, there were 51,049 confirmed cases of COVID-19, a 75 percent increase from July 1;



**WHEREAS**, Wisconsinites successfully “bent the curve” in May, but a drastic new spike has occurred due to the unprecedented number of new confirmed COVID-19 cases, including 43 percent of all Wisconsin COVID-19 cases occurring since July 1:

New confirmed COVID-19 cases by date confirmed, and 7-day average

Updated: 7/28/2020



**WHEREAS**, the average number of new confirmed cases of COVID-19 has drastically increased throughout July, with an average of 556 new cases each day between July 1-7, an average of 764 new cases each day between July 8-14 (a 37 percent increase from the previous week), an average of 890 new cases each day between July 15-21 (a 16 percent increase from the previous week), and an average of 938 new cases each day between July 22-26 (a 5 percent increase from the previous week);

**WHEREAS**, in a report dated July 26, 2020, the President’s COVID-19 Task Force identified Wisconsin as a “red zone” state, along with 21 other states where there is significant, uncontrolled spread of COVID-19;

**WHEREAS**, the federal report noted that the increasing number of cases “continues to be driven by increases in Milwaukee and Green Bay [core-based statistical areas], but also includes an increasing number of counties throughout the state, including in the west (Trempealeau, Pepin) and northwest (Iron County)”;

**WHEREAS**, with the increase in COVID-19 cases, there is also an increased strain on our health care system, with a growing number of hospitalized patients and patients in intensive care units;

**WHEREAS**, the number of confirmed deaths as a result of COVID-19 has also drastically increased; from the first death in March to June 1, 595 Wisconsinites having passed away, and by July 29, 911 people having lost their lives;

**WHEREAS**, an increase in deaths serves as an indicator of increased disease burden; growth in deaths from the last two weeks of July was 1.9 times the growth in deaths for the first two weeks of July, a statistically significant measure of accelerating death rates;

**WHEREAS**, the Centers for Disease Control has forecasted that with Wisconsin’s current disease growth, deaths will continue to increase and could reach 1,800 deaths by fall;

**WHEREAS**, pandemics come in waves of acceleration and deceleration of disease; because COVID-19 is a novel virus and there remain only limited effective treatments for infection and no vaccines to prevent spread of the disease, community mitigation strategies are the recommended intervention during acceleration phases;



**WHEREAS**, the vast majority of Wisconsin is now experiencing high virus activity levels, with some experiencing uncontrolled spread, and without quick intervention, there will be uncontrolled spread of COVID-19 infections statewide, which will lead to unnecessary serious illness or death, overwhelm our healthcare system, prevent schools from fully reopening, and unnecessarily undermine economic stability; and

**WHEREAS**, in order to protect the health and wellbeing of its residents, and to secure our best chances for economic success, Wisconsin must avail itself of all resources needed to respond to and contain the presence of COVID-19.

**NOW, THEREFORE, I, TONY EVERS**, Governor of the State of Wisconsin, by the authority vested in me by the Constitution and laws of this state, and specifically by Sections 321.39, 323.10, 323.12, and 323.13 of the Wisconsin Statutes, hereby:

1. Proclaim that a public health emergency, as defined in Section 323.02(16) of the Wisconsin Statutes, exists for the State of Wisconsin.
2. Designate the Department of Health Services as the lead agency to respond to the public health emergency and direct the Department to take all necessary and appropriate measures to prevent and respond to COVID-19.
3. Authorize the Adjutant General to activate the Wisconsin National Guard as necessary and appropriate to assist in the State's response to the public health emergency, including providing personnel to support the August 11 primary election and personnel to operate community testing sites throughout Wisconsin.
4. Direct all state agencies to assist as appropriate in the State's ongoing response to the public health emergency.
5. Pursuant to Section 323.10 of the Wisconsin Statutes, this Public Health Emergency shall remain in effect for 60 days, or until it is revoked by the Governor or by joint resolution of the Wisconsin State Legislature.



**IN TESTIMONY WHEREOF**, I have hereunto set my hand and caused the Great seal of the State of Wisconsin to be affixed. Done at the Capitol in the City of Madison this thirtieth day of July in the year of two thousand twenty.

  
TONY EVERS  
Governor

By the Governor:

  
DOUGLAS LA FOLLETTE  
Secretary of State





**EMERGENCY ORDER #1**

**Relating to preventing the spread of COVID-19 by requiring face coverings in certain situations**

**WHEREAS**, on July 30, 2020, I issued Executive Order #82, declaring a public health emergency to combat the uncontrolled spread of COVID-19 throughout the State of Wisconsin;

**WHEREAS**, on July 26, 2020, the President's COVID-19 task force recommended that Wisconsin consider adopting a statewide face covering requirement due to the increasing number of confirmed COVID-19 cases;

**WHEREAS**, face coverings are a proven, effective way to slow the spread of COVID-19 without having a significant impact on people's day-to-day lives;

**WHEREAS**, the Centers for Disease Control (CDC) has called on Americans to wear face coverings, with the CDC director stating, "[c]loth face coverings are one of the most powerful weapons we have to slow and stop the spread of the virus – particularly when used universally within a community setting. All Americans have a responsibility to protect themselves, their families, and their communities";

**WHEREAS**, published scientific research has shown that the probability of transmission during exposure between a person infected with COVID-19 to an uninfected person is 17.4 percent if face coverings are not worn, and 3.1 percent if face coverings are worn;

**WHEREAS**, modeling by the University of Washington's Institute for Health Metrics and Evaluation estimates that a face covering requirement in Wisconsin could save more than 500 lives by October 1 if 95 percent of Wisconsinites wear a face covering in public;

**WHEREAS**, states across the nation have recognized the importance and effectiveness of face coverings, with 31 states implementing requirements for face coverings in different settings, including: Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, Texas, Vermont, Virginia, Washington, and West Virginia;

**WHEREAS**, Wisconsin must do its part to stop the spread of COVID-19 in the United States, which is leading the world in COVID-19 cases and deaths;

**WHEREAS**, COVID-19 is not only a threat to public health, but also to our economy;

**WHEREAS**, widespread use of face coverings will slow the spread of COVID-19, allowing Wisconsin's economy to move forward by making sure businesses can stay open and jobs are available;



**WHEREAS**, all Wisconsinites are called upon to join in the collective effort to stop the devastating impact of COVID-19 by wearing a face covering, not harassing or threatening Wisconsinites who wear a face covering, and showing patience and compassion for those who are unable to wear a face covering safely;

**WHEREAS**, “Our Constitution principally entrusts ‘[t]he safety and the health of the people’ to the politically accountable officials of the States ‘to guard and protect.’” *S. Bay United Pentecostal Church v Newsom*, 140 S. Ct. 1613, (Mem)-1614 (2020) (quoting *Jacobson v. Massachusetts*, 197 U.S. 11, 38 (1905));

**WHEREAS**, Section 323.12(4)(b) of the Wisconsin Statutes authorizes the Governor to issue “such orders as he or she deems necessary for the security of persons and property” during an emergency; and

**WHEREAS**, based on input from state and local public health officials, medical professionals, and business leaders, I have determined that a statewide face covering requirement is necessary to protect persons throughout the State of Wisconsin from COVID-19.

**NOW, THEREFORE, I, TONY EVERS**, Governor of the State of Wisconsin, by the authority vested in me by the Constitution and the laws of this state, and specifically Section 323.12 of the Wisconsin Statutes, hereby order the following:

### **1. DEFINITIONS.**

- a. “Enclosed space” means a confined space open to the public where individuals congregate, including but not limited to outdoor bars, outdoor restaurants, taxis, public transit, ride-share vehicles, and outdoor park structures.
- b. “Face covering” means a piece of cloth or other material that is worn to cover the nose and mouth completely. A “face covering” includes but is not limited to a bandana, a cloth face mask, a disposable or paper mask, a neck gaiter, or a religious face covering. A “face covering” does not include face shields, mesh masks, masks with holes or openings, or masks with vents.
- c. “Physical distancing” means maintaining at least six feet of distance from other individuals who are not members of your household or living unit.

### **2. FACE COVERING REQUIRED.** Every individual, age five and older, in Wisconsin shall wear a face covering if both of the following apply:

- a. The individual is indoors or in an enclosed space, other than at a private residence; and
- b. Another person or persons who are not members of individual’s household or living unit are present in the same room or enclosed space.

Face coverings are strongly recommended in all other settings, including outdoors when it is not possible to maintain physical distancing.

### **3. EXCEPTIONS.**

- a. Individuals who are otherwise required to wear a face covering may remove the face covering in the following situations:
  - i. While eating or drinking.
  - ii. When communicating with an individual who is deaf or hard of hearing and communication cannot be achieved through other means.



- iii. While obtaining a service that requires the temporary removal of the face covering, such as dental services.
  - iv. While sleeping.
  - v. While swimming or on duty as a lifeguard.
  - vi. While a single individual is giving a religious, political, media, educational, artistic, cultural, musical, or theatrical presentation for an audience, the single speaker may remove the face covering when actively speaking. While the face covering is removed, the speaker must remain at least 6 feet away from all other individuals at all times.
  - vii. When engaging in work where wearing a face covering would create a risk to the individual, as determined by government safety guidelines.
  - viii. When necessary to confirm the individual's identity, including when entering a bank, credit union, or other financial institution.
  - ix. When federal or state law or regulations prohibit wearing a face covering.
- b. In accordance with [CDC guidance](#), the following individuals are exempt from the face covering requirement in Section 2:
- i. Children between the ages of 2 and 5 are encouraged to wear a mask when physical distancing is not possible. The CDC does not recommend masks for children under the age of 2.
  - ii. Individuals who have trouble breathing.
  - iii. Individuals who are unconscious, incapacitated, or otherwise unable to remove the face covering without assistance.
  - iv. Individuals with medical conditions, intellectual or developmental disabilities, mental health conditions, or other sensory sensitivities that prevent the individual from wearing a face covering.
  - v. Incarcerated individuals. The Wisconsin Department of Corrections shall continue to comply with COVID-19 protocols to ensure the health and safety of its staff and individuals in its care. Local governments are strongly encouraged to continue or create COVID-19 protocols to ensure the health and safety of their staff and individuals in their care.

**4. LEGISLATURE AND JUDICIARY.** State facilities or offices under the control of the Wisconsin State Legislature or the Wisconsin Supreme Court are exempt from this Order. The Wisconsin State Legislature and the Wisconsin Supreme Court may establish guidelines for face coverings that are consistent with the specific needs of their respective branches of government.

**5. PRESERVATION OF MEDICAL SUPPLIES.** To conserve limited supplies of N95 masks and other medical-grade supplies, individuals are discouraged from using such supplies as face coverings.

**6. LOCAL ORDERS.** This Order supersedes any local order that is less restrictive. Local governments may issue orders more restrictive than this Order.

- 7. ENFORCEMENT.** This order is enforceable by civil forfeiture of not more than \$200. Wis. Stat. § 323.28.
- 8. SEVERABILITY.** If any provision of this Order or its application to any person or circumstances is held to be invalid, the remainder of the Order, including the application of such part or provision to other individuals or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.
- 9. DURATION.** This Order shall enter into effect at 12:01 am on Saturday, August 1, 2020. This Order shall expire on September 28, 2020, or by a subsequent superseding emergency order.

**IN TESTIMONY WHEREOF,** I have hereunto set my hand and caused the Great seal of the State of Wisconsin to be affixed. Done at the Capitol in the City of Madison this thirtieth day of July in the year of two thousand twenty.



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TONY EVERS  
Governor