

REGULATION NO. 1

A REGULATION pursuant to Sections 3-502(1) and 3-504(5) of the Cities Airport Authorities Act and Section 3.2 of the Rules and Regulations of the Omaha Airport Authority to provide findings and intent; to require individuals to wear facial coverings and exceptions thereof; to provide for the enforcement of violations and penalties; to establish a sunset provision; and to provide the effective date hereof.

BE IT DETERMINED BY THE EXECUTIVE DIRECTOR OF THE AIRPORT AUTHORITY
OF THE CITY OF OMAHA:

Section 1. That as a result of Novel Coronavirus (COVID-19) pandemic and with an increased number of confirmed COVID-19 cases within the City limits of the City of Omaha and the closing of numerous city and private facilities, there is concern about public health thereby necessitating action by the Executive Director of the Omaha Airport Authority. This regulation seeks to impose a non-pharmaceutical intervention to combat the spread of COVID-19 and to halt the progression thereof at Eppley Airfield and Millard Airport in Omaha, Nebraska ("Eppley Airfield").

Section 2. Pursuant to the Cities Airport Authorities Act, the Omaha Airport Authority has been vested with exclusive jurisdiction in control of all of its airport facilities. Neb. Rev. Stat. § 3-502(1).

Section 3. Pursuant to the Cities Airport Authorities Act, Neb. Rev. Stat. §§ 3-504(5) and 3-504(17), the Omaha Airport Authority is provided with the authority to make rules and regulations for the use of airport facilities.

Section 4. Pursuant to the Omaha Airport Authority Rules and Regulations Section 3.2, the Executive Director has been delegated the following authority:

When the Executive Director determines that conditions effecting [sic] the health, welfare and/or safety of persons and/or property exist at the Airport, he shall be empowered to take that action which, within his discretion and judgment, is necessary or desirable to protect persons and property and to facilitate the operation of the Airport.

Section 5. Pursuant to the Omaha Airport Authority Rules and Regulations Section 3.2, the Executive Director shall at all times have the authority to take such reasonable action as may be necessary for the safety, security, proper conduct and management of the public.

Section 5. That Appendix A, Regulation No. 1 of the Rules and Regulations of the Omaha Airport Authority is hereby created as follows:

PREVENTION OF COVID-19

Sec. A. - Legislative Findings and Intent.

- (1) The Executive Director hereby finds and declares, based upon the scientific and medical evidence before it, that:
 - (a) the Novel Coronavirus (COVID-19) has impacted and continues to dramatically impact the citizens of the City of Omaha, Nebraska; and
 - (b) exposure to COVID-19 presents a risk of death or serious long-term disability; the exposure is widespread and poses significant risk of harm, including death, to people in the general population of the City of Omaha; there is a particular subset of the population that is more vulnerable to the threat and thus at an increased risk; and the threat is from a novel infectious disease; and
 - (c) information from the World Health Organization, the CDC, Nebraska Department of Health and Human Services, the Douglas County Health Department, University of Nebraska Medical Center, other local public health departments throughout Nebraska, and members of the City of Omaha and Douglas County medical community indicates that citizens of the City of Omaha have been and will continue to be exposed due to community transmissions of COVID-19; and
 - (d) the Omaha City Council has determined that the manner in which the spread of COVID-19 cases in the City of Omaha has occurred creates an unacceptable risk to the health, safety, and welfare of the citizens of the City of Omaha; and
 - (e) the number of COVID-19 infections within the City of Omaha continues to increase; and
 - (f) COVID-19 constitutes a public nuisance and a threat to the health, safety, and welfare of the City of Omaha; and
 - (g) The Director of the United States Centers for Disease Control and Prevention (CDC), the Health Director for the City of Omaha, doctors and infectious disease experts from the University of Nebraska Medical Center and Nebraska Medicine, as well as the Metro Omaha Medical Society, have concluded that the wearing of face coverings by every individual while in

public is one of the best methods to slow and stop the spread of COVID-19; and

- (h) conditions exist that affect the health, safety and welfare of persons employed by the Omaha Airport Authority, its tenants, the traveling public, including but not limited to ensuring the health, safety and welfare of persons who may be arriving or departing through Eppley Airfield; and
- (i) the wearing of face coverings by every individual while indoors in public places at Eppley Airfield will reduce community transmissions of COVID-19, resulting in fewer deaths, serious health complications, and will ease the strain on hospitals and other medical offices and facilities; and
- (j) the wearing of face coverings by every individual while indoors in public places at Eppley Airfield will help keep businesses open and operating, encouraging economic growth and preventing prolonged economic harm; and
- (k) prior to this Regulation, the Omaha Airport Authority has recommended and encouraged the wearing of facial covering at Eppley Airfield; and
- (l) it is just and proper for the Executive Director to exercise the authority granted to him in the Rules and Regulations of the Omaha Airport Authority and Nebraska statutes in furtherance of protecting the public health, safety, and welfare of persons at Eppley Airfield.

Sec. B. - Definitions.

For purposes of this Article, the following terms are defined as follows:

- (1) Face Covering. - A face covering is defined as a covering which, when worn properly, must cover the nose and mouth completely and can include a paper or disposable face mask, a cloth face mask, a scarf, a bandanna, a neck gaiter, or a religious face covering. Medical-grade masks and respirators are sufficient face coverings, but to preserve adequate supplies, their purchase and use is discouraged for those who do not work in a health care setting or in other occupations that require medical-grade personal protective equipment. Masks that incorporate valve designed to facilitate easy exhaling, mesh masks, or masks with openings, holes, visible gaps in the design or material, or vents are not sufficient face coverings because they allow exhaled droplets to be released into the air.
- (2) Premises That Are Open to the General Public. - Premises that are open to the general public are broadly defined to include entities at Eppley Airfield that employ or engage workers, including private-sector entities, public-sector entities, including common areas of the Eppley Airfield terminal, general aviation facilities, non-profit entities, regular commercial or business establishments or buildings, public transportation (including buses, taxis, ride-sharing vehicles, or vehicles used for business purposes), and any place which is generally open to the public.

Sec. C. - Individual Facial Coverings Required.

All individuals age five (5) and older shall wear a face covering over their mouth and nose while indoors in a premises that is open to the general public including, but not limited to, educational institutions, unless the individual maintains a minimum of six (6) feet of separation or social distance at all times from anyone who is not a member of the individual's household, except face coverings will not be required if the individual:

- (1) is seeking federal, state, Douglas County, or City of Omaha governmental services;
- (2) is seated at a bar or restaurant to eat or drink, or while consuming food or beverages;
- (3) is engaged in an occupation preventing the wearing of a face covering;
- (4) is obtaining a service or purchasing goods or services that requires the temporary removal of the face covering;
- (5) is asked to remove a face covering to verify an identity for lawful purposes;
- (6) is providing a speech, lecture, or broadcast to an audience so long as six (6) feet of distancing from other individuals is maintained; or
- (7) cannot otherwise wear a face covering because of medical condition, a mental health condition, or a disability that makes it unreasonable for the individual to wear a face covering.

Nothing in this section shall prohibit the owner or person in charge of a premises at Eppley Airfield that is open to the general public from requiring an individual to wear a face covering during any of the circumstances enumerated above or from implementing a more restrictive face covering policy.

Sec. D. - Premises That Are Open to the Public - Duty to Require Facial Coverings.

Any individual or entity at Eppley Airfield that maintains premises that are open to the general public shall require all individuals age five (5) and older to wear a face covering over their mouth and nose while indoors in said premises, unless the individual maintains a minimum of six (6) feet of separation or social distance at all times from anyone who is not a member of the individual's household, except face coverings will not be required if the individual:

- (1) is seeking federal, state, Douglas County, or City of Omaha governmental services;
- (2) is seated at a bar or restaurant to eat or drink, or while consuming food or beverages;
- (3) is engaged in an occupation preventing the wearing of a face covering;
- (4) is obtaining a service or purchasing goods or services that requires the temporary removal of the face covering;
- (5) is asked to remove a face covering to verify an identity for lawful purposes;

- (6) is providing a speech, lecture, or broadcast to an audience so long as six (6) feet of distancing from other individuals is maintained; or
- (7) cannot otherwise wear a face covering because of medical condition, a mental health condition, or a disability that makes it unreasonable for the individual to wear a face covering.

Nothing in this section shall prohibit the owner or person in charge of a premises at Eppley Airfield that is open to the general public from requiring an individual to wear a face covering during any of the circumstances enumerated above or from implementing a more restrictive face covering policy.

Sec. E. - Notice of Face Covering Requirements.

Any individual or entity at Eppley Airfield which maintains premises that are open to the general public must post one or more signs that are visible to all persons - including workers, customers, and visitors - instructing them to wear face coverings as required by this Article.

Sec. F. - Exceptions.

The provisions of this Article shall not apply to:

- (1) Public utilities or federal, state, Douglas County, or City of Omaha operations; medical providers, facilities, or pharmacies.
- (2) Children under the age of five (5). While children ages three (3) and four (4) may wear a face covering if that child can remove the face covering without assistance, guidance from the CDC states that children two (2) years old and under should never wear a face covering due to the risk of suffocation.
- (3) Federal and state activities. Nothing in this Article shall be construed to limit, prohibit, or restrict in any way the operations of the federal or state government or the movement of federal or state officials at Eppley Airfield while acting in their official capacity, including federal and state judicial, legislative, and executive staff and personnel.
- (4) Individuals at their workplace when wearing a face covering would create a job hazard for the individual or others, as determined by federal, state, or local regulators or workplace safety and health standards and guidelines.
- (5) Individuals who are alone in an office, room, a vehicle, the cab of heavy equipment or machinery, or an enclosed work area. In such situations, the individual should still carry a face covering to be prepared for person-to-person interactions and to be used when the individual is no longer alone.
- (6) Individuals who are seated at a desk or standing at a stationary work station, provided that the desk or work station has a solid Plexiglas or plastic barrier installed upon it which cannot be moved.
- (7) Individuals who are officiating at a religious service.

- (8) Individuals communicating with other individuals who are deaf or hard of hearing or who have a disability, medical condition, or mental health condition that makes communication with the individual while wearing a face covering difficult, provided that minimum social distancing of six (6) feet or more is maintained to the extent possible between persons who are not members of the same household.
- (9) Individuals who are engaged in activities, such as showering, where the face covering will get wet.
- (10) Individuals who are exercising in an indoor business or indoor space such as a gym or fitness center, while the level of exertion makes it difficult to wear a face covering, provided that minimum social distancing of six (6) feet or more is maintained at all times.
- (11) Individuals in an indoor premises that is generally open to the public while playing a musical instrument that cannot be played when a face covering is worn, provided that a minimum social distancing of six (6) feet or more is maintained at all times.
- (12) Public safety workers actively engaged in a public safety role, including but not limited to law enforcement personnel, fire fighters, or emergency medical personnel, in situations where wearing a face covering would seriously interfere in the performance of the individual's public safety responsibilities.

Sec. G. - Public Nuisance Declared.

Any individual or entity that maintains premises at Eppley Airfield that are open to the general public who fails to comply with the requirements of Section D, above, is hereby declared to be a nuisance and a danger to the public health, safety, and welfare.

Sec. H. - Application.

The provisions of this Regulation shall only apply to all persons and property within the corporate limits of the Omaha Airport Authority.

Sec. I. - Penalty.

Any individual or person who is found to have violated any of the provisions of this Regulation shall be guilty of a Class III misdemeanor pursuant to Neb. Rev. Stat. § 3-504(5) for each offense or shall be subject to a fine of \$25.00, whichever penalty is less. Each instance of violation of this Regulation may be considered a separate offense.

Sec. J. - Civil Abatement.

In addition to any other penalty sought or obtained under this Regulation or other applicable law, the Omaha Airport Authority may institute injunctive or other appropriate civil proceedings necessary to obtain compliance with this Regulation or to abate any nuisance or trespass resulting from violations of this Regulation.

Sec. K. - Sunset Provision.

The requirements imposed by this Regulation shall expire and terminate at 11:59 p.m. on September 15, 2020, unless otherwise extended by regulation of the Omaha Airport Authority.

Sec. L. - Monitoring of the Reports of the Health Director of the City of Omaha.

The Omaha Airport Authority will monitor the reports of the Health Director of the City of Omaha on every Tuesday while the provisions of this Regulation remain in effect, to be delivered to the Mayor and the City Council.

Section 3. The sections, subsections, paragraphs, sentences, clauses, ,and phrases of this Regulation are severable, and if any section, subsection, paragraph, sentence, clause, or phrase of this Regulation shall be declared invalid, unenforceable, or unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such invalidity, unenforceability, or unconstitutionality shall not affect any of the remaining sections, subsections, paragraphs, sentences, clauses, or phrases of this Regulation.

Section 4. This Regulation shall be in full force and take effect immediately upon the signature of the Executive Director.

APPROVED BY:



EXECUTIVE DIRECTOR OF
THE OMAHA AIRPORT AUTHORITY

TIME AND DATE: 12:01 PM August 14, 2020