The State of Wisconsin

OFFICE OF THE GOVERNOR

**EXECUTIVE ORDER #74**

**Relating to suspending in-person voting on April 7, 2020, due to the COVID-19 Pandemic**

**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, in Executive Order #72, I declared a public health emergency to direct all resources needed 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,** on March 22, 2020, the Wisconsin Supreme Court delayed all jury trials until May 22, 2020, due to the health risks posed by COVID-19 to the public;

**WHEREAS,** on April 4, 2020, the Federal Emergency Management Agency granted Wisconsin a major disaster declaration for the entire State of Wisconsin as a result of the COVID-19 pandemic;

**WHEREAS,** on April 5, 2020, Vice Admiral Jerome Adams, the United States Surgeon General, stated that the impact COVID-19 will have on the United States this week is "our Pearl Harbor moment, our 9/11 moment, and it's not going to be localized, it's going to be happening all over the country and I want America to understand that."

**WHEREAS,** as of April 5, 2020, 2,267 Wisconsinites have tested positive for COVID-19, 624 Wisconsinites have been hospitalized due to COVID-19, and 68 Wisconsinites have passed away as a result of COVID-19, 241,703 individuals in the United States have tested positive for COVID-19, and 5,854 have passed away as a result of COVID-19, and, worldwide, more than 1,100,000 people have tested positive for COVID-19, and more than 62,000 people have passed away as a result of COVID-19;

**WHEREAS,** Section 5.02(21) of the Wisconsin Statutes mandates that the spring election be held on the first Tuesday in April, which this year is April 7, 2020;

**WHEREAS,** the Spring 2020 election includes a broad variety of important matters, including: presidential preference primaries for both major national political parties; a State-wide referendum on a proposed amendment to the Wisconsin Constitution; 132 county, school district, and local referenda; an election for a seat as a justice of the Wisconsin Supreme Court; elections for 3 seats as judges of the Wisconsin Court of Appeals; elections for 34 seats as judges of county circuit courts; elections for 102 seats as judges of municipal courts; elections for 1,596 county supervisors and officers; elections for 763 alders, mayors, and other city offices; elections for 464 village board trustees, board members, and other offices; elections for 291 town supervisors, clerks, and other offices; elections for 565 seats on the boards of common, union, and unified school districts; and elections for 12 seats as supervisors on the boards of sanitary districts;

**WHEREAS,** the State of Wisconsin has a highly decentralized election system under which elections are overseen by the Wisconsin Elections Commission, but must be administered by 1,850 municipal clerks or election commissions and 72 county clerks;

**WHEREAS,** voters face significant risks of exposure to someone infected with COVID-19 by engaging in the process of in-person voting;

**WHEREAS,** poll workers face even greater risks of exposure to COVID-19, because serving as poll workers will require them to come into close proximity with dozens, if not hundreds, of voters as they facilitate voters casting in-person ballots;

**WHEREAS,** in-person voting on April 7 creates a danger of COVID-19 exposure not only for those who serve as poll workers and in contact with one of those people in the weeks that follow;

**WHEREAS,** the extensive work of conducting an election in Wisconsin typically requires assistance from approximately 30,000 poll workers;

**WHEREAS,** due to staffing challenges created by the COVID-19 public health emergency, municipalities across the state project significant shortfalls of thousands of poll workers necessary to administer the Spring 2020 election;

**WHEREAS,** shortfalls in the number of poll workers are requiring municipalities around the state to consolidate polling places, which will necessarily mean larger crowds and greater exposure for those poll workers administering each polling place, as well as for those Wisconsinites who visit those polling places to cast in-person ballots;

**WHEREAS,** among these consolidations are the City of Waukesha, which has consolidated its polling locations from 15 to one location, the City of Milwaukee, which has consolidated its polling locations from 182 to five locations, which is a loss of over 97% of its polling locations, and the City of Green Bay, which has consolidated its polling locations from 31 to 2 locations;

**WHEREAS,** even with the aforementioned consolidations of polling locations, as of April 2, 2020, the Wisconsin Elections Commission estimates that municipalities still need an additional 5,250 poll workers;

**WHEREAS,** no Wisconsinite should ever have to choose between exercising their constitutional right to vote and being safe, secure, and healthy;

**WHEREAS,** state and local public health officials – including local public health officers for Adams County, Barron County, Bayside, Brown Deer, Crawford County, Dane County, Door County, Eau Claire, Eau Claire County, Green Lake County, Florence County, Fox Point, Franklin, Glendale, Greendale, Hales Corners, Jefferson County, Madison, Marquette County, Milwaukee, Monroe County, Pierce County, Price County, Racine, River Hills, Rock County, Saint Croix County, Sauk County, Shorewood, Waushara County, Wauwatosa, West Allis, and Whitefish Bay – have determined that in-person voting on April 7 presents a "serious challenge to controlling the spread of COVID-19";

**WHEREAS,** as Wisconsinites respond to the current public health emergency by conforming their conduct to Emergency Order #12 and social distancing guidance, municipal clerks are already reporting an unprecedented increase in requests for mail-in absentee ballots;

**WHEREAS,** on April 2, 2020, the Honorable William M. Conley, District Judge for the U.S. District Court for the Western District of Wisconsin, ordered absentee ballots in the Spring 2020 election on April 7 may be received until 4:00 p.m. on April 13, 2020, absentee ballot requests may be made until 5:00 p.m. on April 3, 2020, and absentee voters may be relieved of the witness signature if they provide affirmation that they are unable to safely obtain such a signature;

**WHEREAS,** the intervening parties in the aforementioned case immediately appealed the case to the U.S. Court of Appeals for the Seventh Circuit and, most recently, the Supreme Court of the United States, potentially jeopardizing the commonsense relief ordered by Judge Conley and creating further uncertainty;

**WHEREAS,** the State of Michigan held a statewide election on March 10, 2020, and it is suspected that in-person voting led to the spread of COVID-19 in Michigan at a faster rate than the neighboring State of Ohio, which postponed its election;

**WHEREAS,** in light of the current public health emergency, it is incumbent upon the State of Wisconsin to take all reasonable steps to protect the constitutional right to vote;

**WHEREAS,** on April 3, 2020, I called a special session of the Wisconsin Legislature to act upon legislation to allow all Wisconsinites the opportunity to vote safely by mail;

**WHEREAS**, on April 4, 2020, the Wisconsin Legislature – with no discussion or debate – adjourned within seconds of convening;

**WHEREAS**, the Wisconsin Constitution establishes the purpose of State Government is to insure domestic tranquility and promote the general welfare, and, as Governor, I made an oath to uphold the Wisconsin Constitution;

**WHEREAS**, Section 323.12(4)(b) of the Wisconsin Statutes provides that the Governor may issue orders "he or she deems necessary for the security of persons and property"; and

**WHEREAS,** suspending in-person voting on April 7 is necessary to protect the security of the people of Wisconsin and slow the spread 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 the Preamble, Article IV, Section 11, Article V, Section 1, and Article V, Section 4 of the Wisconsin Constitution and Section 323.12(4)(b) of the Wisconsin Statutes, hereby order as follows:

1. Suspend in-person voting for April 7, 2020, until June 9, 2020, unless the Legislature passes and the Governor approves a different date for in-person voting. In the interim, registered Wisconsin voters may continue to request absentee ballots until 5:00 p.m. on the fifth day immediately preceding the new in-person election date, consistent with Wis. Stat. § 6.86(1)(b); clerks shall continue to provide absentee ballots within one business day of the time each elector's request is received, consistent with Wis. Stat. § 7.15(1)(cm); and eligible voters may continue to cast mail-in absentee ballots as long as they are returned so that they are delivered to the polling place no later than 8 p.m. on the new election date, consistent with Wis. Stat. § 6.87(6). All ballots already cast in the 2020 Spring election will remain valid, will be tallied in conjunction with in-person voting on the new date, and will be included in all relevant canvasses for the Spring 2020 election.

2. Require the convening of a special session of the Legislature at the Capitol in the City of Madison, to commence at 2:00 p.m. on April 7, 2020, solely to consider and act upon legislation to set a new in-person voting date for the 2020 Spring election.

3. Provide that, given the necessary delay in the Spring 2020 election, those individuals currently serving in an office to be filled based upon the results of the Spring 2020 election ballot are authorized to continue fulfilling the duties of those offices, and exercising the privileges of those offices, until three business days after county, municipal, and school district clerks issue certificates of election, pursuant to Wis. Stat. §§ 7.53(4), 7.60(6), and 120.06(10), once the deadline to file a petition for recount and appeal of recount has passed. On the third business day after issuance of the certificate of election for any given office on the Spring 2020 election ballot, the term of the newly elected official in that office shall begin. Notwithstanding the delayed beginning of the term for such offices, the terms of all such offices shall expire as if the Spring 2020 election occurred as initially scheduled and all terms of office began as would be anticipated under such circumstances.

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

TONY EVERS
Governor

By the Governor:

DOUGLAS LA FOLLETTE
Secretary of State