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Luis Alberto Villarreal García, Constitutional President of the Municipality of San Miguel de Allende, Guanajuato, a the inhabitants of the same I know:

That the City Council that I preside based on the powers provided for in articles 115 of the Constitution Policy of the United Mexican States; 1, third paragraph, 107 and 117, section IX, of the Political Constitution for the State of Guanajuato; 77, section VI of the Municipal Organic Law for the State of Guanajuato; 402, 403, 404, section XIII, 416, 417 and 418 of the General Health Law; 1st, 3rd, Section A, section XIV, 4th, section III, 16, section IV, 113, section II, 117, section II of the Guanajuato State Health Law, in session Ordinary number LI dated April 30, 2020, approved the issuance of the following:

MUNICIPAL PROCLAMATION BY WHICH THE MANDATORY USE OF COVER MACHINES IS ESTABLISHED AND DIFFERENT PROVISIONS CONFIRMED ON MARCH 30, 2020 AS MEASURES OF SANITARY SAFETY TO PREVENT AND MITIGATE THE SPREAD AND SPREAD OF DISEASE GENERATED BY THE SARS-CoV2 VIRUS (COVID-19) IN THE MUNICIPALITY OF SAN MIGUEL DE ALLENDE, GUANAJUATO, based on the following

CONSIDERING

I.

Article 117, section IX of the Political Constitution for the State of Guanajuato empowers the City councils for the execution of all the measures related to urban hygiene and **public health**.

II.

The second paragraph of article 403 of the General Health Law provides that the City Councils will participate in the competition to order and execute the security measures that are necessary for public health in accordance with applicable local legislation.

III.

Article 113 of the Guanajuato State Health Law empowers the municipal authorities to establish temporary campaigns for the control or eradication of diseases communicable that constitute a real or potential problem for the General Health of the Republic. Likewise, the second paragraph of that precept, obliges the municipalities to carry out the activities for the prevention and control of, among other communicable diseases, acute infections of the respiratory system.

IV.

Article 117 of the Health Law for the State of Guanajuato establishes that among the measures of prevention and control that can be applied in the case of communicable diseases that endanger the General Health, the isolation and control of the sick people and people suspected of being carriers, as well as limiting their activities when required for epidemiological reasons.

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V.

On March 11, 2020, the World Health Organization (WHO) declared the existence of pandemic derived from coronavirus disease known as the COVID-19 pandemic, due to the high number of infected people and deaths it has caused around the world and whose affectations have already been made patent in Mexico and in the State of Guanajuato. SAW.

On March 30, 2020 was published in the *Official Journal of the Federation* the Agreement issued by the President of the General Health Council, whereby an emergency is declared health due to force majeure, to the epidemic of disease generated by the SARS virus-CoV2 (COVID-19).

VII.

In this sense, on the 31st of the same month and year, the Secretary of Health of the Government of Mexico

published in the Official Gazette of the Federation, the Agreement establishing actions extraordinary to meet the health emergency, including the immediate suspension of 30 from March to April 30, 2020, of non-essential activities.

VIII.

According to the report of the Ministry of Health of the Federal Government of April 23, 2020 in Mexico, 11,633 cases of COVID-19 have been confirmed and 1,069 deaths have occurred.

IX.

As of the same date, in the State of Guanajuato 183 confirmed cases and 14 deaths. In San Miguel de Allende, the Federal Health Secretariat reports 8 cases confirmed and zero deaths.

Despite the fact that until today the WHO has not suggested the massive use of masks as a measure to prevent the spread of COVID-19, various studies and analyzes provide the evidence Enough to recommend its mandatory use in public spaces. ¹ Countries as States

The United States, Canada, South Korea and the Czech Republic have already adopted this measure and have even forced its citizens to wear face masks to go outside.

Although people normally use the face mask to protect themselves, it is also its use is recommended to protect others from our respiratory drops or particles, which which is important to prevent transmission through asymptomatic carriers. Therefore, use mouthguards in public places is not only a measure of personal protection but also of altruism, since it actively involves each citizen in the protection of others and is a symbol of responsibility and social solidarity in the global response to the pandemic.

¹ The British magazine *The Lancet*, specialized in medicine and one of the most prestigious in the world, published last April 16 an article that reports various studies, analyzes and guides from different parts of the world, in which the massive use of masks in public places is recommended. Kar Keung Cheng, Tai Hing Lam and Chi Chiu Leung (2020, April 16). Wearing face masks in the community during the COVID-19 pandemic:

altruism

and

solidarity.

The

Lancet.

Recovered

of

[https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)30918-](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)30918-1/fulltext? Dgcid = raven_jbs_etoc_email)

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Wearing mouthguards should not relax other health measures such as social distancing and handwashing, but added to the other hygiene, sanitation and healthy distance measures, it can collaborate to prevent San Miguel de Allende from spiraling out of control disease at this highly contagious stage.

X.

That by Decree published in the Official Gazette of the Federation on April 21, 2020, the Council of General Health of the Republic, reported that according to the speed and characteristics of the infections, the epidemic entered Phase 3, so the National Day of Sana Distancia until May 30, 2020, and the necessary measures were established to ensure the adequate implementation and compliance of the sanitary security measures in force until that moment.

XI.

Pursuant to the second article of the Agreement amending the similar by which they are established extraordinary actions to attend to the health emergency generated by the SARS-CoV2 virus, published in the Official Gazette of the Federation on March 31, 2020, referred to in point

above, article FIFTH, section II, was added to **impose on the governments of the federal entities the obligation to implement prevention and control measures relevant according to the general criteria issued by the Secretariat and in accordance with the magnitude of the COVID-19 epidemic.**

XII.

That, according to the daily reports issued by the Ministry of Health of the Federal Government, Since April 21, 2020, the increase in infections derived from COVID-19 has continued the following rhythm:

Date	
Cases	
Confirmed	
New	
04/21	12962
	709
04/22	13498
	536
04/23	13791
	293
04/24	13842
	51

Therefore, it is essential to maintain the measures derived from the National Day of San Distance in the municipal area.

XIII.

The Secretary of Health of the State of Guanajuato reports, for the Municipality of San Miguel de Allende to April 25, 2020, the following data:

Investigation	
Confirmed	
Recovered	
Deaths	
Transmission	
community	
4	
7	
3	
0	
6	

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This means that the most serious challenge facing San Miguel de Allende is containment. of the spread of the disease at community level, so sanitary measures must fundamentally aim to avoid as much as possible contact between people and the exposure to conditions that facilitate contact with the virus.

XIV.

Now, although the health measures that are issued to combat the epidemic of COVID-19 find their foundation in the applicable legal framework for these circumstances, specifically the norms that found this proclamation contained in the General Health Law and in the Health Law for the State of Guanajuato, it is important to recognize that said measures must **respect and guarantee the validity of Human Rights**, so, as they have

exposed the National Commission of Human Rights and the Office of the Procurator of Rights Humans of the State of Guanajuato, sanitary measures that may imply limitations to other rights must be justified on the basis of and reinforced motivation, to that the institutional action of this municipal authority is in accordance with the Constitutional State of Straight.

Under these conditions, it is evident that in the case of the COVID-19 epidemic, the rights at stake are the Right to Life and Health that, in certain circumstances, may conflict with Rights to Work and Free Transit, for example.

Therefore, pursuant to the provisions of Article 1 of the Political Constitution of the United States Mexicans, the City of San Miguel de Allende, within the scope of its powers, has the obligation to promote, respect and guarantee Human Rights in accordance with the principles of universality, interdependence, indivisibility and proportionality.

In the specific case of San Miguel de Allende, the measures adopted can be seen as acts of authority that, in favor of the rights to life and health, collide with other rights.

The Federal Judiciary has resolved this legal dilemma considering that, after exercising the weight of rights of constitutional rank, the rights to life and health must prevail over others, because they are fundamental rights of greater magnitude because, without life or health, respect for rights is irrelevant such as transit or mobility. ²

However, the measures adopted, recognizing that the effective fight against the epidemic requires the reduction of contact and social isolation, which translates into measures that involve non-concentration
2 Collegiate Circuit Courts. Thesis: IV.1º.AJ / 30 (10ª). Gazette of the Federal Judicial Weekly. Book 50. January 2018, Volume IV. Tenth epoch. P. 1905.

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of people; closure of busy commercial or public premises; and the non-agglomeration in work centers, account must be taken of people's need to access essential and indispensable supplies such as food, medicine and mobility to carry out acts of humanitarian solidarity with relatives and known, as well as the need to move to supply the home with the minimum necessary for the daily subsistence. Therefore, the measures adopted aim to find a balance between the Rights to Life and Health and other basic and fundamental rights of people based on solidarity and social subsidiarity.

By virtue of the foregoing, the City of San Miguel de Allende, Guanajuato issues the following

PROCLAMATION:

First : The use of mouth covers is mandatory for all people in any space of the Municipality of San Miguel de Allende, such as public roads, public buildings or transportation public; as well as in those establishments and / or turns that are dedicated to essential activities.

Second : The measures decreed by the Municipal Presidency of San Miguel de Allende are extended on the 20th March 2020, through May **30, 2020**, including suspension of non-essential activities in accordance with the provisions of article one of the Agreement amending the similar by which extraordinary actions are established to attend to the health emergency generated by the SARS-CoV2 virus, published on March 31, 2020, published in the Official Gazette of the Federation on April 21, 2020.

Third: Extraordinary actions to attend to the health emergency generated by the SARS-CoV2 virus, referred to in the previous article in accordance with the measures dictated in Article One, section I of the Agreement of April 21, 2020 issued by the Secretary of Health, will cease to be implemented from **18**

May 2020 , in the municipality of San Miguel de Allende, in the event that the Government Health Secretariat Federal decree that the municipality qualifies as low or no transmission of the SARS-CoV2 virus.

Fourth: The municipal authorities will be responsible for verifying compliance with the measures. health facilities, so they can intervene to review and monitor that the healthy distance is respected, the use mandatory of mouth covers for employees and customers and the income of a single person per family in the following establishments:

1. Establishments in the Historic Center;
2. Public markets and supermarkets;

3. Self-service and convenience stores;

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4. Financial and banking institutions

5. Public transportation;

Fifth : It will be presumed that private parties or meetings generate the dangers of contagion and risks to the public health referred to in this proclamation and, therefore, may be sanctioned in the terms of the twelfth article of this Proclamation;

Sixth: Violations of the precepts of this Party will be administratively sanctioned by the health authorities, without prejudice to the corresponding penalties when they constitute crimes.

Seventh : Administrative sanctions, pursuant to the provisions of article 417 of the General Law of Health and in article 292 of the Health Law for the State of Guanajuato, they may be:

I.- Warning with warning;

II.- Fine;

III.- Temporary or definitive closure, which may be partial or total, and

IV.- Arrest for up to thirty-six hours.

Eighth : By imposing a sanction, the health authority will establish and motivate the resolution, taking into account:

I.- Damages that have occurred or may occur to people's health;

II.- The seriousness of the infraction;

III.- The socio-economic conditions of the offender, and

IV.- The offender's recidivism quality;

Ninth : In accordance with the provisions of article 419 of the General Health Law and in Article 294 of the Health Law for the State of Guanajuato, with a **FINE EQUIVALENT OF UP TO ONE HUNDRED TIMES THE DAILY VALUE OF THE UNIT OF MEASURE AND UPDATE**, violation of the provisions of this Proclamation.

Tenth : In case of **recidivism**, in accordance with the provisions of article 423 of the General Health Law and Article 298 of the Health Law for the State of Guanajuato **will double the amount of the fine that it corresponds** . For the purposes of this Proclamation, recidivism is understood to mean that the offender commits the same violation of its provisions more times within the period of validity.

Eleventh : In accordance with the provisions of article 425 of the General Health Law and article 300 of the Health Law for the State of Guanajuato, the **TEMPORARY OR FINAL CLOSURE will proceed** , partial or total depending on the seriousness of the infraction and the characteristics of the activity or establishment, in cases where

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that the establishments and / or lines of business that are dedicated to essential activities do not comply with the obligations and measures defined in this agreement, regardless of other sanctions that are applicable in the judgment of the competent municipal authority.

Twelfth : In accordance with the provisions of article 427 of the General Health Law, it will be sanctioned with **ARREST UP TO THIRTY SIX HOURS** , to the person who in default refuses to comply with the requirements and provisions of the health authority, thereby causing a danger to the health of people.

TRANSITORY

ONLY. This Agreement will enter into force the day after its publication in the Municipal Gazette of San Miguel de Allende, Guanajuato, notwithstanding the formalities for its publication in the newspaper State official.

For the foregoing and in accordance with the provisions of articles 77, section VI and 240 of the Organic Law Municipal for the State of Guanajuato, order that it be printed, published, circulated, and given due compliance. Given at the Municipal Palace of San Miguel de Allende, Guanajuato, on the 30th day of April 2020.

Luis Alberto Villarreal García

The mayor

Jesús Gonzalo González Rodríguez
Secretary of Government and City Council

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