



## PROCLAMATION

- WHEREAS,** One of the greatest responsibilities of any elected official is the protection of the electorate served and the protection of the greater public health and safety; and
- WHEREAS,** On March 17, 2020, the Governor of Iowa issued a Proclamation of Public Health Disaster Emergency after multiple cases of COVID-19 had been confirmed in Iowa and the Iowa Department of Public Health determined that community spread was occurring within the state; and
- WHEREAS,** As Mayor of the City of Dubuque I took an oath to uphold and defend the Constitution of the United States and the Constitution of the State of Iowa; and
- WHEREAS,** Iowa voters in 1968 passed the Home Rule Amendment to the Iowa Constitution which constitutionalized local control in the State of Iowa; and
- WHEREAS,** The Home Rule Amendment became Article III, Section 38A of the Iowa Constitution granting municipalities the power to determine their local affairs and government not inconsistent with the laws of the general assembly; and
- WHEREAS,** Chapter 364 of the Iowa Code reaffirms the constitutional grant of home rule authority to municipalities "to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the city or its residents, and improve the peace, safety, health, welfare and convenience of its residents"; and
- WHEREAS,** A "city may exercise its general powers subject only to limitations expressly imposed by a state or city law," and the exercise of a city power "is not inconsistent with a state law unless it is irreconcilable with the state law." Iowa Code section 364.2(2) and (3); and
- WHEREAS,** Governor Reynolds has indicated the Governor's emergency management authority occupies the field and local governments are not authorized to implement "Stay at Home Orders" or face mask mandates; and
- WHEREAS,** The Governor has failed to perform the necessary analysis as to whether local "Stay at Home Orders" and face mask mandates are irreconcilable with her emergency management action; and

**WHEREAS,** Until that analysis is done, or a court settles the question of preemption, the matter is not settled; and

**WHEREAS,** A city may set standards “more stringent than those imposed by state law, unless a state law provides otherwise.” Iowa Code Section 364.3(a); City of Des Moines v. Gruen, 457 N.W.2d 340, 343 (Iowa 1990); Bryan v. City of Des Moines, 261 N.W.2d 685, 687 (Iowa 1978); and

**WHEREAS,** Section 372.14(2) of the Iowa Code authorizes the Mayor “to govern the city by proclamation, upon making a determination that time of emergency or public danger exists”; and

**WHEREAS,** Pursuant to the powers vested in me as Mayor under Section 372.14(2) of the Iowa Code and Section 7-3-1 of the City Code of Dubuque, I issued a Proclamation of Civil Emergency due to the dangers presented by the Novel Coronavirus 2019 (COVID-19) and declared my intention to take such extraordinary measures as are in my judgment necessary to maintain health, welfare and safety within the community; and

**WHEREAS,** A July 26, 2020 White House Coronavirus Taskforce report placed Iowa in the red zone for cases, indicating more than 100 new cases per 100,000 population; and

**WHEREAS,** Dubuque County was one of the counties in the White House Coronavirus Taskforce Report with the highest number of new cases in the 3-week preceding the report; and

**WHEREAS,** The City of Dubuque is the largest municipality in Dubuque County; and,

**WHEREAS,** The White House Coronavirus Taskforce report made the following policy recommendations for counties in the red zone:

- Public Messaging
  - Wear a mask at all times outside the home and maintain physical distance
  - Limit social gatherings to 10 people or fewer
  - Do not go to bars, nightclubs, or gyms
  - Use take out or eat outdoors socially distanced
  - Protect anyone with serious medical conditions at home by social distancing at home and using high levels of personal hygiene, including hand washing and cleaning surfaces
  - Reduce your public interactions and activities to 25% of your normal activity
- Public Officials

- Close bars and gyms, and create outdoor dining opportunities with pedestrian areas
  - Limit social gatherings to 10 people or fewer
  - Institute routine weekly testing of all workers in assisted living and long-term care facilities
  - Require masks for all staff and prohibit visitors
  - Ensure that all business retailers and personal services require masks and can safely social distance
  - Increase messaging on the risk of serious disease for individuals in all age groups with preexisting obesity, hypertension, and diabetes mellitus, and recommend to shelter in place
  - Work with local community groups to provide targeted, tailored messaging to communities with high case rates, and increase community level testing
  - Recruit more contact tracers as community outreach workers to ensure all cases are contacted and all positive households are individually tested within 24 hours
  - Provide isolation facilities outside of households if positive individuals can't quarantine successfully
- Testing
    - Move to community-led neighborhood testing and work with local community groups to increase access to testing
    - Surge testing and contact tracing resources to neighborhoods and zip codes highest case rates
    - Diagnostic pooling: Laboratories should use pooling of samples to increase testing access and reduce turn around times to under 12 hours. Consider pools of 2-3 individuals in high incidence settings and 5 :1 pools in setting where test positivity is under 10 %
    - Surveillance pooling: For family and cohabitating households, screen entire households in a single test by pooling specimens of all members into single collection device

**WHEREAS,** This month brings the return to the City of thousands of students to attend the local colleges and universities and the start of the school year for elementary, middle, and high school students, which will further increase the risk of spread of the virus within our community; and

**WHEREAS,** Members of the Dubuque Community School Board have asked the City Council to ensure the safety of students, teachers, and staff in the public schools by requiring mask wearing to reduce the spread of COVID-19 in the community; and

**WHEREAS,** The Centers for Disease Control (CDC) has determined that face coverings are a critical tool in the fight against COVID-19 that could reduce the spread of the virus, particularly when used universally within communities; and

**WHEREAS,** The Governor's current proclamation requires that businesses and gatherings ensure social distancing of employees, customers and attendees, increased hygiene practices, and other public health measures to reduce the risk of transmission of COVID-19 consistent with the guidance of the Iowa Department of Public Health (IDPH); and

**WHEREAS,** The IDPH's reopening guidance advises that members of the public consider the use of cloth face coverings when distancing is not possible because wearing face coverings in public places where social distancing measures are difficult (like grocery stores and pharmacies) can help slow the spread of COVID-19, and refers the public to the "local public health agency, the appropriate regulating agency or professional association" with questions about how to implement its guidance; and

**WHEREAS,** A requirement that persons in Dubuque wear face coverings is essential to reducing the risk of transmission of COVID-19, and necessary to protect the health, welfare and safety of residents and visitors and accelerate local recovery efforts; and

**WHEREAS,** A requirement to wear face coverings is consistent with the Governor's proclamation and the guidance of the IDPH and the Dubuque County Department of Public Health; and

**WHEREAS,** Pursuant to Article III, Section 38A of the Iowa Constitution, the powers vested in me as Mayor under Section 372.14(2) of the Iowa Code, Section 7-3-1 of the City of Dubuque Code of Ordinances, I deem it essential that when present within the City of Dubuque all persons wear face coverings as ordered below.

**NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING AND OTHER VALID EMERGENT CONCERNS, I, ROY D. BUOL, MAYOR OF THE CITY OF DUBUQUE, PROCLAIM AND ORDER THE FOLLOWING:**

I hereby determine that a state of emergency or public danger in the City of Dubuque exists and continues.

Every person in the City of Dubuque ~~three (3) years of age and older,~~ must wear a face covering that covers the person's nose and mouth when in a public place as follows:

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- In public, as opposed to being in one's place of residence, when one cannot stay six (6) feet away from others;
- Inside of any indoor public settings, for example, but not limited to:
  - Grocery stores
  - Pharmacies
  - Hardware stores
  - Retail stores
  - Other public settings that are not one's place of residence and when with persons who do not live in the household;
- Outside, if keeping six (6) feet away from others is not possible; and
- Using public transportation or a private car service (including taxis, ride share, or carpooling).

No business that is open to the public may provide service to a customer or allow a customer to enter its premises unless the customer is wearing a face covering as required by this Order, and businesses that are open to the public must post signs at entrance(s) instructing customers of their legal obligation to wear a face covering while inside.

The following persons are exempt from wearing a face covering:

- Persons younger than (two) 2 years of age due to the risk of suffocation
- Anyone who has trouble breathing or is on oxygen therapy or a ventilator
- Anyone who is unconscious, incapacitated, or otherwise unable to remove the face covering without assistance
- Anyone who has been told by a medical, legal, or behavioral health professional not to wear face coverings
- Anyone actively engaged in a public safety role, including but not limited to law enforcement, firefighters, or emergency medical personnel, although a mask should be worn if possible.
- [A student participating in co-curricular activities when participating according to the Iowa High School Athletic Association rules for wearing face coverings.](#)

Places and times where persons are exempt from wearing a face covering:

- While traveling in a personal vehicle alone or with household members

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- While a person is alone or in the presence of only household members
- While outside, if keeping six (6) feet away from others is possible
- While exercising at moderate or high intensity such as jogging or biking
- While seated at a food establishment in the process of eating or drinking
- While obtaining a service that would require temporary removal of the person's face covering
- When federal or state law prohibits wearing a face covering or requires the removal of the face covering

The following businesses shall be restricted to fifty-percent (50%) capacity.

- Restaurants
- Bars
- Fitness Centers

I continue to strongly encourage citizens to adjust to life with COVID-19 in an open economy, prior to the availability of a vaccine, by:

- 1) Regularly washing your hands for twenty (20) seconds and routinely sanitizing frequently touched surfaces;
- 2) Practicing social and physical distancing whenever possible; and
- 3) Monitoring your personal health and if you are exhibiting COVID-19 symptoms or have been exposed to a positive COVID-19 case, staying home and contacting your medical provider.

The provision of any prior proclamations shall continue until modified, rescinded, or extended. This Order shall remain in place until rescinded.

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Pursuant to City Code Section 7-3-1, a violation of this Order or any directive given pursuant hereto by any police officer shall be unlawful and punishable as a simple misdemeanor. Citation shall be a last resort to obtain compliance.

This Proclamation of emergency and public danger is part of an ongoing response of the City of Dubuque to an ever-changing situation to protect public health and safety. This proclamation may be modified or superseded with more restrictive proclamations at any

time as circumstances warrant. Please be aware these decisions have been made based upon the information available today. You can find the most recent information about the City's response to COVID-19 at [www.cityofdubuque.org](http://www.cityofdubuque.org).

PROCLAIMED THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2020 BY THE AUTHORITY VESTED IN ME BY THE CODE OF IOWA AND THE CITY OF DUBUQUE CODE OF ORDINANCES.



IN WITNESS THEREOF, I have hereunto set my hand and caused the Great Seal of the City of Dubuque to be affixed this \_\_\_\_ day of \_\_\_\_\_ 2020.

\_\_\_\_\_  
Roy D. Buol, Mayor

Attest:

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Kevin S. Firnstahl, CMC, City Clerk