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 issued a Proclamation of Public Health Disaster Emergency for the State related to the dangers of COVID-19, which remains in place today; and

WHEREAS, Over 440,000 cases of COVID-19 have been confirmed in the State of Iowa and to date more than 6,300 Iowans have lost their lives due to COVID-19; and

WHEREAS, Despite nearly 52% of Iowans being fully vaccinated and over 54% of Dubuque County residents being fully vaccinated, the emergency of the Delta variant is resulting in increasing community spread of COVID-19 within the state and Dubuque County; and

WHEREAS, The Iowa Department of Public Health reported on Sept. 1, 2021, new cases of COVID-19 and COVID-19 hospitalizations continue to increase across the state with 144 new cases in Dubuque County over the previous week and 15 county residents hospitalized due to COVID, the highest 7-day increase in new cases since April and the highest number of hospitalizations since January; and;

WHEREAS, The risk of transmission COVID-19 may be substantially reduced by separating and restricting the movement of persons known or suspected to have the disease, or who have been exposed to those known or suspected to have the disease; and

WHEREAS, The Dubuque County Public Health Incident Management Team (IMT) recommends residents and visitors in Dubuque County wear face coverings in public indoor settings, regardless of COVID-19 vaccination status due to the discovery of the Delta variant being more contagious; and

WHEREAS, According to the Center for Disease Control and Prevention (CDC), Dubuque County is currently at a "high level" of community transmission of the virus; 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, 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, 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 to encourage citizens to wear a face covering when in public, wearing a face covering will be required for anyone present within the City of Dubuque facilities conducting business, and social distance shall be maintained within City of Dubuque facilities.

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 older than two (2) years of age is encouraged to wear a face covering that covers the person’s nose and mouth when in a public place.

Every person in the City of Dubuque older than two (2) years of age shall wear a face covering that covers the person’s nose and mouth when conducting business in any facility owned by the City of Dubuque.

The following persons are exempt from wearing a face covering in City of Dubuque facilities:

- 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.
- Anyone engaged in recreational activities.

The requirement for face coverings in City of Dubuque facilities shall remain in place until such time as

1) the CDC lowers or changes the status of Dubuque County from “high transmission” community transmission to a “low transmission” community transmission, or
2) As advised by the IMT with consideration to local data and conditions.

I continue to strongly encourage citizens to adjust to life with COVID-19 in an open economy 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; and

4) Getting the COVID-19 vaccine.

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

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.

PROCLAIMED THIS 7TH DAY OF SEPTEMBER 2021 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 7TH day of SEPTEMBER 2021.

Roy D. Buol, Mayor

Attest:

Adrienne N. Breitfelder, City Clerk