
COUNTY COUNCIL, COUNTY MANAGER, AND BOARD OF HEALTH
IN AND FOR SUMMIT COUNTY, STATE OF UTAH

In the matter of:

COVID-19 Pandemic within Summit County

**JOINT PUBLIC HEALTH ORDER
(Stabilization Phase)**

Order No.: 2020-09

Date: August 26, 2020

Legal Authority: Utah Code §26A-1-114
Utah Code §17-50-
302(1)(a)(ii)
Summit County Code
§4-5-6(A)

The Summit County Health Officer (“**SCHO**”) issued his Public Health Order 2020-01 on March 15, 2020.

The SCHO issued his Public Health Order 2020-02 on March 23, 2020.

The SCHO, Summit County Council (“**Council**”), and the Summit County Manager (“**Manager**”) (together, the “**County**”) issued their Joint Public Health Order 2020-03 (the “**Stay-at-Home Order**”) on March 25, 2020.

The SCHO issued his Amended Public Health Order 2020-04 on March 31, 2020, which extended Public Health Order 2020-01 and 2020-02 to be co-terminus with the Stay-at-Home Order.

The Governor of the State of Utah has issued his “Utah Leads Together (Version 4)” and “Phased Guidelines for the General Public and Businesses to Maximize Community Health and Economic Re-activation” (together, the “**Utah Leads Together Plan**”).

The Utah Leads Together Plan 4.0 establishes a plan for economic recovery and revitalization under five guiding principles: Speed, Targeted Enduring, Flexible, and Innovative. The guiding principles are used to guide the pandemic response for the 100-day, 250-day, and 500-day horizons of recovery. To assist in this effort, an operational dashboard has been provided, which establishes a color-coded health guidance system. This system consists of four levels: High Level of Restriction (red), Moderate Level of Restriction (orange), Low Level of

Restriction (yellow), and Minimal Level of Restriction (green). Prior to the change in terminology on August 14, 2020, the four levels were referred to as High Risk, Moderate Risk, Low Risk, and the New Normal.

The County issued its Joint Public Health Order 2020-05 with an effective date of May 1, 2020, which transitioned the risk level in the County from High Risk (red) to Moderate Risk (orange) with community specific protocols for businesses and industries.

The County issued its Joint Public Health Order 2020-06 with an effective date of May 16, 2020, which set forth that the County remain at Moderate Risk (orange) with community specific protocols for food service, lodging and accommodations, indoor recreational facilities, and arts, special events, and entertainment.

The County issued its Joint Public Health Order 2020-07 on May 21, 2020, which transitioned the County from Moderate Risk (orange) to Low Risk (yellow), and adopted the Utah Leads Together Plan, inclusive of its updated and amended Phased Guidelines for the General Public and Businesses to Maximize Community Health and Economic Re-activation (the “**Phased Health Guidelines**”).

Version 4.10 of the Phased Health Guidelines requires that in public settings “face coverings are to be worn when physical distancing is not feasible.” Further, the Phased Health Guidelines stress that “[w]hile wearing face coverings has proven to be somewhat effective in slowing the spread of COVID-19, they will not completely eliminate the risk of COVID-19 spread. Therefore, sound judgment, physical distancing and hygiene practices are important principles that must accompany appropriate use of face coverings.” The Governor’s Executive Order 2020-50, dated August 14, 2020, which adopted Version 4.10 of the Phased Health Guidelines, provides that the wearing of a face covering is a “strong recommendation.” The number of positive tests of COVID-19 in the State of Utah has continued to increase since May 27, 2020. During this time, rates in Utah were exceeding that in our neighboring State of Colorado by 350%, COVID-19 patients in Utah hospitals have increased from an average of 90 to 150 during the month of June, and Intermountain Health Care, which runs the Park City Hospital (the County’s sole hospital provider), reported that if those trends continued, it would run out of conventional ICU capacity in July. Further, the percent of positive cases from testing had increased from 4.96% to 9.23% over this same period. The 7-day rolling average of new cases in Utah continues to be greater than 300

Dr. Angela Dunn, the state’s epidemiologist, indicated in a June 19, 2020 memorandum, that if the rolling 7-day average of new cases is not reduced to 200 by July 1, we as a state, may need to start transitioning back to Moderate Risk (orange). Dr. Dunn recommended that mandatory mask wearing be implemented as a way to stem this current trajectory of new COVID-19 cases.

Summit County continues to have a total case rate of 1,814.8 per 100,000 population, the third highest in the state. Two of the counties that neighbor Summit County have the second and fourth highest case rates in the State. The proportion of positive cases related to travel has remained steady since reporting 13% of the cases in Summit County were travel related on Memorial Day to 15% on August 7. The County has had nine (9) consecutive days of increased new (incidence) cases, based on the CDC 3-day average methodology. Additionally, the County has experienced an increase in Positivity Test Rates from 5.24% on July 1 to 7.8% on August 18, exceeding the state target of 3%.

Importantly, statistical analyses comparing the rate of incidence decline in Summit County to that of the state of Utah, found that the Summit County mask order effectively increased the magnitude of incidence decline. Although numbers are currently surging in Summit County, these new cases appear to be connected to specific gatherings where face coverings were not worn. We do not believe the new increase in cases diminishes the evidence that face coverings mitigate COVID-19 risk or spread.

While Summit County data may not be as dire at this moment as some surrounding jurisdictions, all the trends are unfavorable. Summit County is a location to which people travel, often from areas experiencing rapid disease spread. Additionally, with uncertainty created by schools reopening, there is potential for increased exposure within the community. Based on the current adverse County data trends, the surging cases in surrounding counties, and the start of the new school year, the best strategy to averting a future business shutdown is through continuing a mandatory mask measure.

The business community and resort economy in Summit County simply cannot endure a return to Moderate Restriction (orange) without suffering catastrophic economic damage. The County needs to maintain the current path. Dr. Dunn's recommendation of mandatory mask regulations provides the County with one that could be implemented immediately. Such a regulation also reflects the general opinion of members of the Park City Chamber of Commerce, according to a recent, informal poll.

According to the most recent guidance from the CDC, they "advise the use of simple cloth face coverings to slow the spread of the virus and help people who may have the virus and do not know it from transmitting it to others."¹ An article appearing in the Wall Street Journal noted that health agencies have identified "respiratory-droplet contact as the major mode of Covid-19 transmission;²" thus adding support for the use of facemasks. Further, "[e]vidence

¹ <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html>

² Daniela Hernandez, Sarah Toy, and Betsey McKay, "How Exactly Do You Catch Covid-19? There Is a Growing Consensus," *The Wall Street Journal* (June 16, 2020).

from 10 studies (across all three viruses, including 2,647 participants) found benefits for face masks in general (risk of infection or transmission when wearing a mask was 3% vs 17% when not wearing a mask).”³ In fact, a recent study found decreased mortality rates associated with face coverings.⁴

In order to stem the acceleration of the spread of COVID-19 and prevent a possible return to Moderate Restriction (orange), it is necessary for the citizen populace to wear face coverings in certain public settings regardless of social distancing.

The County requested and has received an exemption from the Governor’s Executive Order 2020-32, which allows the County to impose a mandatory face covering order.

The County issued its Joint Public Health Order 2020-08 on June 26, 2020, and amended it on July 1, 2020. Since issuing such, the County has discovered that face shields provide adequate protection from the transmission of COVID-19. A recent evaluation of the data by the Summit County Health Department indicate the decline in positive COVID cases since the implementation of the mask order is statistically significant when comparing trend lines. This is a positive outcome that can be attributed to increased mask use in Summit County.

On August 14, 2020, interim Executive Director of the Utah Department of Health, Richard G. Saunders, issued STATE PUBLIC HEALTH ORDER 2020-11 requiring “[e]ach individual on school property or on a school bus shall wear a facemask.” Summit County supports this order and will work to ensure compliance within the school districts.

THEREFORE, PURSUANT TO UTAH CODE §26A-1-114, UTAH CODE §17-50-302, SUMMIT COUNTY CODE §5-4-6, AND SUMMIT COUNTY CODE OF HEALTH §1-1-10(b), BE IT HEREBY ORDERED BY RICHARD C. BULLOUGH, PHD, SUMMIT COUNTY HEALTH OFFICER, THE SUMMIT COUNTY COUNCIL, AND THOMAS C. FISHER, SUMMIT COUNTY MANAGER, IN CONSULTATION WITH THE SUMMIT COUNTY BOARD OF HEALTH, AS FOLLOWS:

Section 1. Purpose. The intent of this Amended Order is to require all individuals living within or visiting Summit County, Utah, to wear Face Coverings or Face Shields while inside

³ “Physical distancing, face masks, and eye protection to prevent person-to-person transmission of SARS-CoV-2 and Covid 19: a systematic review and meta-analysis.” DK Chu, MD; EA Aki, MD; S Duda, MSc; K Solo, MSc, et. al. *The Lancet* (Open Access Published June 01, 2020).

⁴ Leffler, Christopher & Ing, Edsel & Lykins, Joseph & Hogan, Matthew & McKeown, Craig & Grzybowski, Andrzej. (2020). Association of country-wide coronavirus mortality with demographics, testing, lockdowns, and public wearing of masks (Update June 15, 2020). <https://www.researchgate.net/community/COVID-19>

publicly accessed indoor establishments, including schools. All provisions of this Amended Order shall be interpreted to effectuate this intent.

Section 2. **Definitions.**

- 2.1 “Face-covering” is a physical barrier that:
- i. covers the nose and mouth without openings that can be seen through;
 - ii. is made of synthetic or natural fabrics;
 - iii. secures under the chin;
 - iv. fits snugly against the nose and sides of the face; and
 - v. does not have an exhalation valve or vent.

- 2.2 “Face shield” means a face covering that:
- i. covers the entire face;
 - ii. protects the eyes of the wearer;
 - iii. is made of clear plastic or similar nonpermeable transparent material;
 - iv. secures around the top of the head;
 - v. does not secure under the chin;
 - vi. does not fit snugly against the nose or sides of the face; and
 - vii. can be used in conjunction with a mask for enhanced protection.

Section 3. **Face Coverings and Face Shields Mandatory.** The County hereby orders all individuals currently living within or visiting Summit County, Utah, to wear a Face Covering or Face Shield in the following circumstances:

- 3.1 Inside of, or in line to enter, any indoor space, which is open to members of the public;
- 3.2 Obtaining services from the healthcare industry in settings, including without limitation, a hospital, pharmacy, medical clinic, laboratory, physician or dental office, veterinary clinic, or blood bank, unless directed otherwise by a healthcare provider;
- 3.3 Employees, staff, or volunteers engaging in work, whether inside or outside at the workplace or performing work off-site, when:

- 3.3.1 Interacting in-person with any member of the public;
- 3.3.2 Working in any space visited by members of the public, regardless of whether anyone from the public is present at the time.
- 3.3.3 Working in any space where food is prepared or packaged for sale or distribution.
- 3.4 At all community gatherings, indoor or outdoor, which is defined as a gathering of over fifty (50) people in any one location.
- 3.5 For gyms, fitness facilities, recreations centers, etc., face coverings/face shields shall be worn in all common areas, locker rooms, stretching areas, and all areas associated with the track (including the corners).
 - 3.5.1 Face coverings/face shields do not need to be worn when individuals are engaged in strenuous physical exercise. For cardio exercise (including fitness classes) and weight lifting areas, equipment shall be placed six-ten feet apart.
- 3.6 Each individual on school property or on a school bus shall wear a face mask, except as provided in Section 4

Section 4. **Exemptions.** The following individuals are exempt from wearing a Face Covering or Face Shield:

- 4.1 Individuals age two years or under.
- 4.2 Individuals with a medical condition, mental health condition, or disability that prevents wearing a Face Covering or Face Shield.
- 4.3 Individuals who are hearing impaired, or communicating with an individual who is hearing impaired, where the ability to see the mouth is essential for communication.
- 4.4 Individuals for whom wearing a Face Covering or Face Shield would create a risk to the individual related to their work, as determined by local, state or federal regulators or workplace safety guidelines.
- 4.5 Individuals who are obtaining a service involving the nose or face for which temporary removal of the Face Covering or Face Shield is necessary to perform the service.

- 4.6 Individuals who are seated at a restaurant or other establishment that offers food or beverage service, while they are eating or drinking.
- 4.7 Individuals who are purchasing a product or receiving a service that requires identification may briefly remove a Face Covering or Face Shield, as necessary, so that the retailer or service provider can verify identity.
- 4.8 Because children between the ages of two (2) and twelve (12) years of age can have challenges wearing a Face Covering or Face Shield properly (e.g., excessively touching the Face Covering, not changing the Face Covering if visibly soiled, risk of strangulation or suffocation, etc.), they are to be worn with the assistance and close supervision of an adult. Face Coverings or Face Shields are never to be worn by children when sleeping.
- 4.9 Individuals engaging in work where they are alone in an indoor establishment or facility.
- 4.10 As approved by the Summit County Health Department, where either:
 - 4.10.1 other effective mitigation can be implemented in lieu of a Face Covering or Face Shield; or
 - 4.10.2 it can be shown that on balance the overall health risks associated with wearing a Face Covering or Face Shield during an activity is greater than the overall health risks associated with not wearing a Face Covering or Face Shield during said activity.
- 4.11 For indoor sports (scrimmages, games, practices) and activities:
 - 4.11.1 Active participants (i.e. players and referees) are not required to wear face coverings/face shields while within the confines of the playing surface. Playing surface is defined as the court, ice sheet, or field where active participation occurs, but does not include the sidelines and benches.
 - 4.11.2 Coaches, instructors, spectators and participants not within the confines of the playing surface shall be required to wear a face covering/face shield.
 - 4.11.3 Playing surface capacity is limited when face coverings/face shields are not worn (4 on a tennis court, 10 on a basketball court, 12 on a volleyball court, and 20 on an ice sheet). Facilities may operate at regular capacity if all individuals are wearing face coverings/face shields.
- 4.12 For outdoor sports (scrimmages, games, practices):

- 4.12.1 Active participants (i.e. players and referees) are not required to wear face coverings/face shields while within the confines of the playing surface.
- 4.12.2 Coaches, instructors, spectators and participants not within the confines of the playing surface shall be required to wear a face covering/ face shield.
- 4.13 In a child day care center or facility setting, the mask order does not apply to:
 - 4.13.1 A child while maintaining a physical distance of at least six feet from any other child or adult when outdoors;
 - 4.13.2 A child who is eating or drinking while indoors and maintains a physical distance of at least six feet from any other child or adult;
 - 4.13.3 A child who:
 - (a) is younger than three years of age; or
 - (b) is three years old or older if the parent, guardian, or individual responsible for caring for the child cannot place the face covering safely on the child's face;
 - 4.13.4 A child with a medical condition, mental health condition, or disability that prevents wearing a face covering, including a child with a medical condition for whom wearing a face covering could cause harm or dangerously obstruct breathing, or who is unconscious, incapacitated, or otherwise unable to remove a face covering without assistance;
 - 4.13.5 A child who is deaf or hard of hearing while communicating with others, or a child who is communicating with an individual who is deaf or hard of hearing, where the ability to see the mouth is essential for communication, in which case a face shield or alternative protection, such as plexiglass barrier, should be used; and
 - 4.13.6 A child who is receiving or providing a service involving the nose or face which temporary removal of the face covering is necessary to perform the service.
- 4.14 Exemptions afforded by STATE PUBLIC HEALTH ORDER 2020-11, section 3, are incorporated by reference as they relate to face covering requirements in school settings.

Section 5. **Posting.** All businesses open to the public where Face Coverings or Face Shields are required hereunder, shall post a notice in form and substance promulgated by the Summit

County Health Department, in a clearly visible location at or near the entrance to such place of business, that declares that Face Coverings or Face Shields are to be worn by order of the Summit County Health Department.

Section 6. **Effective Date; Duration.** This Amended Order shall become effective at 12:01 a.m. on August 27, 2020, and will continue to be in effect until 11:59 p.m. on January 8, 2021, or until it is extended, rescinded, superseded, or amended in writing. This Amended Order shall be re-evaluated in fourteen (14) calendar days.

Section 7. **Publication.** This Amended Order shall be on file for public inspection with the Summit County Clerk and the Summit County Health Department.

Section 8. **Enforcement.** The County Sheriff and Chiefs of Police within the County are directed to ensure compliance with and enforce this Amended Order. Violations of this Amended Order shall be punished as an infraction. Notwithstanding such, the purpose of this Amended Order is to protect individuals' health and not to hold them criminally liable. Discretion will be used in the citing and prosecution of violations of this Amended Order.

Section 9. **Appeal.** This Amended Order may be appealed to the Summit County Board of Health within ten (10) calendar days in accordance with Summit County Code of Health §1-1-9.

ORDERED, APPROVED, ADOPTED, and PASSED, and published, this 26th day of August, 2020.



SUMMIT COUNTY COUNCIL

Doug Clyde, Chair

Attest:

Kent Jones
Summit County Clerk

VOTING OF COUNTY COUNCIL:

Councilmember Carson

Aye

Councilmember Robinson

Aye

Councilmember Clyde

Aye

Councilmember Armstrong

Aye

Councilmember Wright

Aye

Approved as to form:



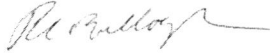
Margaret H. Olson
Summit County Attorney

BY ORDER OF THE SUMMIT COUNTY MANAGER



Thomas C. Fisher
Summit County Manager

BY ORDER OF THE SUMMIT COUNTY HEALTH OFFICER



Richard C. Bullough, PhD
County Health Officer