



SUMMIT COUNTY HEALTH DEPARTMENT

Richard C. Bullough, Ph.D., Director

June 25, 2020

General Jefferson Burton
Interim Director
Utah State Department of Health
jeffburton@utah.gov
betsycoleman@utah.gov
Via Email Only

Re: Summit County's Request for Mandatory Mask Exemption

Dear General Burton:

Thank you for again considering Summit County's request for an exemption under Utah Code § 53-2c-103. We continue to appreciate your leadership and access during this health pandemic. Summit County (the "County") values the time you have provided to our Health Department leaders and others to discuss critical issues that we are facing.

We hereby respectfully request an exemption to issue a mandatory mask order in the interest of public health. A proposed Joint Public Health Order is attached. Data is set forth below.

As demonstrated by Dr. Dunn's letter of June 19, 2020, Utah's current trajectory of new COVID-19 cases is not good. The current rolling 7-day average of new cases continues to be greater than 400. That is 3.5 times higher than the current rate in Colorado. Hospitalizations are on the rise, with Intermountain Health Care ("IHC") indicating that if current trends continue it will reach ICU capacity in July. This is especially of a concern to the County because IHC is the County's sole hospital provider, with only 4 ICU beds. Dr. Dunn indicated that we need to reduce this rolling 7-day average to 200 new cases per day by July 1 or we may need to transition back to Moderate Risk (orange).

While the COVID-19 data in Summit County have been favorable as recently as three weeks ago, our more recent trends are of great concern and strongly suggest we are heading the wrong direction since moving to Yellow. Our Proxy Transmission Rate is at 2.5, and has been above the State goal of 1.5 continuously since June 10. The proportion of our positive cases related to travel has steadily increased from 0% on Memorial Day to 13% today. We have had nine (9) consecutive days of increased new (incidence) cases, based on the CDC 3-day average

methodology. Additionally, we have experienced an increase in Positivity Test Rates from 2.5% on June 12 to 4% on June 21, exceeding the state target of 3%. While these 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. Based on our current adverse data trends, and the surging cases in surrounding counties, we strongly believe our primary hope in averting a future business shutdown is through this proposed mandatory mask measure.

Our business community and resort economy simply cannot endure a return to Moderate Risk (Orange) without suffering catastrophic economic damage. We need an expedient solution. Dr. Dunn's recommendation of mandatory mask regulations provides us with one we could implement immediately. Our community cannot afford to "wait and see". This request also reflects the general opinion of members of the Park City Chamber of Commerce, according to a recent, informal poll.

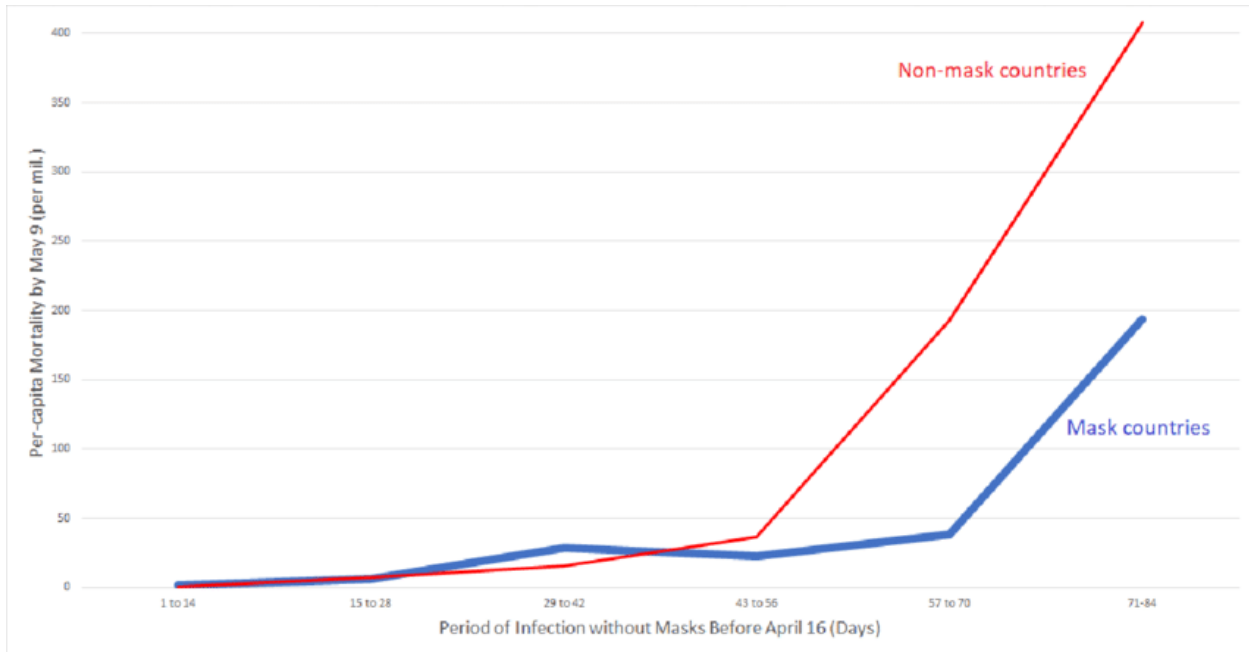
According to the most recent guidance from the CDC, they "advise the use of simple cloth face coverings to slow the spread of the virus and help people who may have the virus and do not know it from transmitting it to others."¹ An article appearing in the Wall Street Journal noted that health agencies have identified "respiratory-droplet contact as the major mode of Covid-19 transmission;"² thus adding support for the use of masks. Further, "[e]vidence 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 (see chart below).⁴

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).

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>



It is with this backdrop, that the County requests an exemption from the Governor’s Executive Order 2020-32, dated June 19, 2020, that it be allowed to issue the following order with respect to the wearing of a face covering in public:

Face Coverings Mandatory. The County hereby orders all individuals currently living within or visiting Summit County, Utah, to wear a face covering that completely covers the nose and mouth in the following circumstances:

- 2.1 Inside of, or in line to enter, any indoor public space, including without limitation, any commercial, industrial, agricultural, institutional, or publicly accessed establishment for the purpose of shopping, dining, patronizing, spectating, or transacting business;
- 2.2 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;
- 2.3 Engaging in work, whether at the workplace or performing work off-site, when:
 - 2.3.1 Interacting in-person with any member of the public;
 - 2.3.2 Working in any space visited by members of the public, regardless of whether anyone from the public is present at the time;

- 2.3.3 Working in any space where food is prepared or packaged for sale or distribution
- 2.4 At community gatherings.

Exemptions. The following individuals are exempt from wearing a face covering:

- 3.1 Individuals age two years or under.
- 3.2 Individuals with a medical condition, mental health condition, or disability that prevents wearing a face covering.
- 3.3 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.
- 3.4 Individuals for whom wearing a face covering would create a risk to the individual related to their work, as determined by local, state or federal regulators or workplace safety guidelines.
- 3.5 Individuals who are obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service.
- 3.6 Individuals who are seated at a restaurant or other establishment that offers food or beverage service, while they are eating or drinking.

Enforcement. The County Sheriff and Chiefs of Police within the County are directed to ensure compliance with and enforce this Order. Violations of this Order shall be punishable as an infraction. Notwithstanding such, the purpose of this 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 Order.

Our request is based upon: (a) a thoughtful consideration of the manner in which COVID-19 contagion is spread and our attempt to focus mitigation efforts on the most meaningful method of curtailing the current spread within our community; (b) our unique tourism economy which is a regional and national draw from other jurisdictions experiencing upward trends in rates of infection, and; (c) an urgent desire to avoid transitioning back to Moderate Risk (orange).

In addition to the grave health consequences, we are extremely concerned that Summit County's economy will be profoundly damaged by not checking the continuing spread of COVID-19. Infected employees can effectively close a small business while they quarantine and their contacts isolate. Equally troubling is a negative reputation attached to being labeled a hotspot for infection that could result in Summit County being viewed negatively as a desirable place to visit. Please help us preserve the health of our residents, our excellent reputation and brand, and to keep our businesses open.

This respectful request is well-reasoned and represents a thoughtful approach about ways to protect the unique circumstances presented to our community. This request is in the spirit of statements made by Governor Herbert on June 24. Questions may be directed, at any time, to any of the undersigned. Thank you for receiving our urgent request for a prompt reply.

Very truly yours,

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