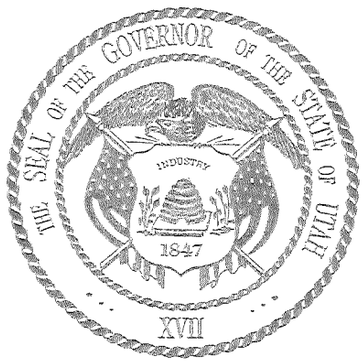

Gary Richard Herbert

Governor

EXECUTIVE ORDER

2020-74

Temporary Statewide COVID-19 Restrictions

WHEREAS, on November 8, 2020, I issued Executive Order 2020-72, declaring a state of emergency Due to Rising COVID-19 Case Counts Creating a Shortage of Hospital Beds;

WHEREAS, COVID-19 has been characterized by the World Health Organization as a worldwide pandemic caused by Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2), a virus that spreads easily from person to person and can cause serious illness or death;

WHEREAS, the number of COVID-19 cases in Utah has sharply increased, causing serious illness and death to Utah residents, threatening public health and wellness throughout the state;

WHEREAS, Utah is experiencing a significant increase in the use of medical resources;

WHEREAS, new minimum standards are needed to prevent and control the rapidly changing consequences of COVID-19 throughout the state;

WHEREAS, the Centers for Disease Control (CDC) has called on Americans to wear face coverings, with the CDC director stating that "[c]loth face coverings are one of the most powerful weapons we have to slow and stop the spread of the virus—particularly when used universally within a community setting," and that "[a]ll Americans have a responsibility to protect themselves, their families, and their communities";

WHEREAS, analysis by Brigham Young University researchers reviewing more than 115 studies on the effectiveness of masks in controlling COVID-19 found that "[t]here is clear evidence that face coverings reduce the spray of droplets produced during speaking, coughing, and sneezing" and that "masks could be one of the most powerful and cost-effective tools to stop COVID-19 and accelerate the economic recovery";

WHEREAS, published scientific research has shown that the probability of transmission during exposure between a person infected with COVID-19 to an uninfected person is 17.4% if face coverings are not worn, and 3.1% if face coverings are worn;

WHEREAS, Utah Code § 53-2a-209(1) provides that orders issued by the governor under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act, have the "full force and effect of law";

WHEREAS, Utah Code § 53-2a-204(1)(a) authorizes the governor to utilize all available resources of state government as reasonably necessary to cope with a state of emergency; and

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary for the purpose of securing compliance with orders made pursuant to the Disaster Response and Recovery Act:

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the following:

1. **Definitions.** As used in this Order:
    a. "COVID-19" means Novel Coronavirus Disease 2019 caused by Severe Acute Respiratory Syndrome Coronavirus 2, also known as SARS-CoV-2.
    b. "Department" means the Department of Health created in Utah Code § 26-1-8.
    c. "Event host" means a person that owns, operates, provides facilities for, or has formal oversight over any of the following where a social gathering occurs: an amusement or water park, arena, aquarium, aviary, botanical garden, ceremony, cinema, comedy club, commercial event venue, commercial party venue, concert or concert hall, conference, convention or convention center, dance or dance hall, driver's education training, fair or fairground, museum, organized athletic or sporting event, recital, stadium, theater, or zoo.
    d. "Extracurricular activity" means an activity, a course, or a program that is:
        i. not directly related to delivering instruction;
        ii. not a curricular activity or co-curricular activity as those terms are defined in Utah Code § 53G-7-501; and
        iii. provided, sponsored, or supported by a school or a public or private institution of higher education, including a degree-granting institution and a technical college.
    e. "Face mask" means a mask that completely covers the nose and mouth, is made of synthetic or natural fabrics, and fits snugly against the nose and sides of the face and under the chin. "Face mask" does not include a mask with an exhalation valve, vent, or other hole or opening, or a mask that is crocheted or made of lace, mesh, or similar open weblike construction or material.
    f. "Face shield" means a shield that covers the entire face—including the eyes, nostrils, and mouth of the wearer—is made of clear plastic or similar nonpermeable transparent material, and can be used in conjunction with a face mask for enhanced protection.
    g. "Household" means an individual or a group of individuals who reside in the same residence.
    h. "Local Education Agency" or "LEA" means a school district or a charter school.
    i. "Person" means the same as that term is defined in Utah Code § 68-3-12.5(18).
    j. "School" means an LEA or private school that provides any kindergarten through grade-12 program or service, including a residential treatment center that provides any kindergarten through grade-12 program or service.
    k. "Social gathering" means an in-person gathering of individuals from separate households. "Social gathering" does not include a gathering for a primarily educational or religious purpose.
2. **Restrictions.** The following restrictions apply statewide:
    a. *Individuals.* An individual:
        i. shall wear a face mask while within six feet of any individual from a separate household;
        ii. may not eat or drink within six feet of an individual from a separate household while at a bar or restaurant; and
        iii. may not attend a social gathering unless:
            A. the social gathering has an event host or occurs at a business, including a bar or restaurant; and
            B. the individual complies with all face mask and physical distancing requirements.
    b. *Event hosts.* An event host of a social gathering shall:

i. require each individual attending the social gathering to wear a face mask, including in an area of ingress or egress;

ii. require at least six feet of physical distance between individuals from separate households who attend the social gathering, including in an area of ingress or egress, unless the event host received a waiver pursuant to State Public Health Order 2020-19 or State Public Health Order 2020-20;

iii. post conspicuous signage at the social gathering that:

A. lists COVID-19 symptoms;

B. asks individuals experiencing COVID-19 symptoms to stay home; and

C. provides notice of face mask and physical distancing requirements; and

iv. complete and implement the Event Management Template provided by the Department.

c. *Businesses.*

i. A business, including a bar or restaurant, whether or not acting as an event host, shall:

A. require each employee and contractor to wear a face mask while at work;

B. require each patron that enters the premises of the business to wear a face mask, including in an area of ingress or egress;

C. require at least six feet of physical distance, including in an area of ingress or egress, between each:

1. separate household group at a business other than a bar or restaurant; or

2. separate party at a bar or restaurant; and

D. post conspicuous signage at each entrance to the business that:

1. lists COVID-19 symptoms;

2. asks employees and customers experiencing COVID-19 symptoms to stay home; and

3. provides notice of face mask and physical distancing requirements.

ii. An on-premise licensee of the Department of Alcoholic Beverage Control shall not sell, offer to sell, or furnish liquor or beer after 10:00 p.m.

d. *Athletic and Extracurricular Social Gatherings.*

i. Except as provided in Subsection (2)(d)(ii), a person may not participate in or be an event host for a social gathering that is an organized athletic or sporting event or extracurricular activity.

ii. Subsection (2)(d)(i) does not apply to:

A. an intercollegiate or professional athletic event; or

B. a high school football practice or competition if the following conditions are met:

1. in-person attendance is limited to only participating athletes—including football players, cheerleaders, and drill team members—and their coaches, trainers, staff members, and no more than two additional individuals per attending coach, trainer, athlete, or staff member;

2. each attending athlete, coach, trainer, and staff member, wears a face mask, except as provided in Subsection (3)(a)(viii);

3. each attending spectator wears a face mask and maintains at least six feet of physical distance from any other individual from a separate household;

4. an athlete, coach, trainer, or staff member is permitted to participate in a competition only if the coach, trainer, staff member, or athlete receives a negative test result from a diagnostic test approved by the United States Food and Drug Administration to determine current COVID-19 infection within 72 hours before the game; and

5. an Event Management Template provided by the Department is completed and implemented for the practice or competition

C. an athletic event held by a private business or organization, that is not a school, including a fitness facility or athletic club, if the following conditions are met:

1. in-person attendance is limited to only participating athletes and their coaches, trainers, staff members, and no more than two additional individuals per attending coach, trainer, athlete, or staff member;
2. each attending athlete, coach, trainer, and staff member maintains six feet physical distance from any individual from a separate household;
3. each attending spectator wears a face mask and maintains at least six feet of physical distance from an individual from a separate household; and
4. an Event Management Template provided by the Department is completed and implemented for the athletic event.

iii. A person that owns, operates, provides facilities for, or has formal oversight over an athletic event, including a practice or competition, authorized under Subsection (2)(d)(ii) is not subject to the requirements of Subsection (2)(b) for that event.

e. *Institutions of Higher Education.* Beginning as soon as possible, but no later than January 1, 2021, a public or private institution of higher education, including a degree-granting institution or technical college, shall require each individual who is enrolled as a student of the institution of higher education and who lives in on-campus housing or attends at least one in-person class provided by the institution of higher education to obtain a diagnostic test approved by the United States Food and Drug Administration to determine current COVID-19 infection each week.

3. **Face mask exceptions.**

a. Notwithstanding any other provision of this Order, an individual who is otherwise required by this Order to wear a face mask may remove the face mask in the following situations:

i. while actively eating or drinking;
ii. while as the sole occupant of a room, cubicle, or similar enclosure;
iii. when communicating with an individual who is deaf or hard of hearing if:
   A. communication cannot be achieved through other means; and
   B. the speaker wears a face shield or uses alternative protection such as a plexiglass barrier;
iv. while obtaining or providing a service that requires the temporary removal of the face mask, such as dental services or speech therapy services;
v. while sleeping;
vi. while exercising or engaging in athletic training while:
   A. outdoors; or
   B. indoors and maintaining at least six feet of physical distance from any other individual from a separate household;
vii. while swimming or on duty as a lifeguard;
viii. while actively performing as an athlete at an organized athletic event authorized under Subsection (2)(d)(ii);
ix. while giving a religious, political, media, educational, artistic, cultural, musical, or theatrical presentation or performance for an audience;
x. when engaging in work where wearing a face mask would create a risk to the individual, as determined by government safety guidelines;
xi. when necessary to confirm the individual's identity, including when entering a bank, credit union, or other financial institution; and
xii. when federal or state law or regulations prohibit wearing a face mask.

b. The following individuals are exempt from the face mask requirements in Section (2):
   i. a child who is younger than three years old;
   ii. an individual who is unconscious, incapacitated, or otherwise unable to remove the face mask without assistance; and
   iii. an individual with a medical condition, mental health condition, or intellectual or developmental disability, that prevents the individual from wearing a face mask; and
   iv. an individual who is incarcerated.

4. **Local education agencies.**
   a. An LEA is not subject to the provisions of Section (2)(b) and (2)(c).
   b. An LEA shall comply with the requirements of the "Planning Requirements and Recommendations for K-12 School Reopening," created by the Utah State Board of Education.
5. **Religious services.** This Order does not apply to a religious service. Faith-based organizations are strongly encouraged to implement protocols to mitigate the spread of COVID-19.
6. **Effect on other laws.**
   a. This Order supersedes Executive Order 2020-73;
   b. To the extent that any provision of this Order conflicts with a provision of State Public Health Order 2020-11, the provisions of this Order shall control.
   c. Nothing in this Order may be construed to prohibit a local health department from issuing a health order that is more stringent than this Order.
7. **Severability.** If a provision of this Order or the application of a provision to any person or circumstance is held invalid, the remainder of this Order shall be given effect without the invalid provision or application. The provisions of this Order are severable.

This Order is effective on November 9, 2020, at 1:00 p.m. and shall remain in effect through November 23, 2020, unless otherwise modified, amended, rescinded, or superseded.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 9th day of November, 2020.

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor