

Mammoth Group:

Response to Mono County Health Department's Clarification of CDPH "Regional Stay-at-Home" Order as Related to Lodging Facilities. 1/11/21

Red = Mono County Black = Mono County Blue = Mammoth Group

Mono County Health Department Public Health Officer Order: Clarification of CDPH "Regional Stay-at-Home" Order as related to Lodging Facilities 1/7/2021

January 7, 2020

This Order provides further clarification of the status of the State of California's Stay-AtHome order (Executive Order N-33-20, March 19, 2020), which remains in effect, the State Department of Public Health's Regional Stay At Home Order which became applicable to Mono County on December 6, 2020, and CDPH's January 6, 2021 Travel Advisory. This order supersedes the December 5, 2020, Health Officer Order clarifying the State rules for lodging.

WHEREAS, a state of emergency was declared by the State of California, and local emergencies have been declared in both Mono County and in the Town of Mammoth Lakes, in response to the virus COVID-19; and

The requirement to terminate the local health emergency at the earliest conditions that warrant was not waived by the governors proclamation of State of Emergency for Covid-19. The legal definition of a "state of emergency" as it pertains to Covid-19, is defined as the introduction of an imminent and proximate threat of a contagious, infectious, or communicable disease. Mono County disregards the word introduction as it does not suit their agenda.

WHEREAS, in Mono County, as well as throughout California and the nation, there are insufficient quantities of critical healthcare infrastructure, including hospital beds, ventilators and workers, capable of adequately treating mass numbers of patients at a single time – should the virus spread unchecked; and

Mammoth Hospital has been in green status throughout the declaration of the local health emergency for Covid-19. Mono County emergency services have not been overwhelmed a single time throughout the local health emergency declared for Covid-19. Mono County is its own jurisdiction, and has not lost that status from being lumped into the Southern California Region.

The State of California received over 15 Billion in CARES Act funds to respond to the impacts of Covid-19. The Town of Mammoth Lakes, Mono County, Southern California Region, and the State of California had over 9 months and over 15 billion in CARES Act funds to increase quantities of critical healthcare infrastructure, hospital beds, ventilators, and workers.

On September, 22 the Town of Mammoth Lakes and Mono County officially declared an effort to, "Crush The Double-Demic Prevent Flu To Save Lives This Fall And Winter".

Mono County received 1.37 million in CARES Act funds from the state and did not increase our medical infrastructure. Instead of using CARES Act funds to increase infrastructure and staff to respond to Covid-19, Mono County attempted to use CARES Act funds to start a new business and furnish the government Civic Center.

To clarify, Mono County prioritized the use of CARES Act funds to purchase infrastructure for the Civic Center, including furniture, sneeze guards, deep cleaning, and air purifiers. At the same time the Town of Mammoth Lakes and Mono County told everyone its not safe to gather regardless of size. By definition a civic center is a place of gathering.

Yet the Town of Mammoth Lakes and Mono County did not make such preparations for Mammoth Hospital or first responders. Why? Perhaps it was the fact that Mammoth Hospital had been in green status throughout the declared health emergency for Covid-19.

WHEREAS, in response to that lack of healthcare infrastructure, governments across the nation are taking actions to slow the spread of COVID-19 in order to stem the rate of infection and reduce the numbers of individuals infected at any one time by minimizing situations where the virus can spread; and

The same argument was made in March 2020. Remember two weeks to flatten the curve, and subsequent shutdown of Mammoth Mountain Resort, the Town of Mammoth Lakes, and Mono County? The "legal definition" of the introduction of an imminent and proximate threat of a contagious, infectious, or communicable disease EXPIRED months ago.

Again, the Town of Mammoth Lakes, Mono County, Southern California Region, and the State of California had over 9 months and 15 billion dollars to respond to the lack of healthcare infrastructure and yet no sufficient actions were taken. Instead of taking action these jurisdictions were completely incompetent and negligent. Their incompetence and negligence is now being used as the excuse for the stay-at-home orders, business restrictions, business closures, and deprivation of rights under color of law.

WHEREAS, the State of California has developed the “Blueprint for a Safer Economy”, a risk-based tier system of business, social and worship activity promulgated by the California Department of Public Health/ State Public Health Officer under Health and Safety Code sections § 131080 and § 120140. Under the Blueprint, the level of activity authorized depends upon indicators of COVID-19 infection in a local health jurisdiction (county); and

Here we have a perfect example of Mono County claiming it has its own local health jurisdiction when such a claim suits them. So we have a local health jurisdiction but the Town of Mammoth Lakes and Mono County abandon that stance when it comes to being included in the Southern California Region?

WHEREAS, Mono County, like much of the United States, is experiencing rapidly increasing cases of COVID-19 and on December 2, 2020, was moved into the most restrictive Purple tier (widespread levels of virus transmission) of the state’s Blueprint for a Safer Economy; and **WHEREAS**, on December 3, 2020, in response to a significant rise in the number of cases and hospitalizations related to COVID-19 across the State, the California State Public Health Officer issued a Regional Stay At Home Order, which applies to any region of the State which has an adult ICU bed capacity of less than 15% (the “Regional Order”) (<https://covid19.ca.gov/stay-home-except-for-essential-needs/#regional-stayhome-order>); and

Again, the term "cases" is completely misleading due to the fact that the PCR test is unreliable and has a significant false positive rate. As well, the cycle threshold of the test is not being regulated. A so-called "case" does not equate to someone actually being infected with Covid-19. The PCR test was not meant to be used for diagnostic purposes. Antigen tests are also unreliable, produce a high percentage of false positives and present misleading statistics and "case" numbers.

Therefore, the claimed "case" numbers are completely inaccurate and present a false pretense of Covid-19's presence in Mono County and cannot be taken legitimately whether statistically or scientifically.

WHEREAS, Mono County is within the Southern California Health Officers' Region (the "Southern Region") identified by the Regional Order (which includes Mono County, Inyo County, San Bernardino, Riverside, Imperial, Los Angeles, Orange County, City of Pasadena, City of Long Beach, Ventura, San Diego, Santa Barbara and San Luis Obispo County) and with ongoing decreases in ICU capacity to below 15% within the Southern Region, the Regional Order goes into effect for the southern region at 23:59 hours on Sunday December 6; and

So is Mono County its own local health jurisdiction or not? Using ICU capacity as the metric for a stay at home order and business restrictions is simply not acceptable since little to no preparations were made to increase ICU capacity over 9 months. This disgraceful display of government incompetence and negligence is now being weaponized against the people to deprive them of their rights and private business operations under color of law.

WHEREAS, the Regional Order requires all individuals living in the region to "stay home or at their place as residence except as necessary to conduct activities associated with the operation, maintenance, or usage of critical infrastructure"¹; and

The Regional Order that requires all individuals living in the region to "stay home or at their place of residence", is color of law, unconstitutional and unenforceable.

WHEREAS, on January 6, 2021, the California Department of Public Health issued an updated Travel Advisory strongly discouraging travel for non-essential purposes and emphasizing the propensity of travel to increase a person's chance of spreading and/or getting COVID-19 ; and

The updated regional stay at home order changed from "REQUIRES" to "STRONGLY DISCOURAGING", because such orders are color of law, unconstitutional and unenforceable.

WHEREAS, the Mono County Health Officer wishes to provide guidance to businesses in the lodging sector of Mono County and the Town of Mammoth Lakes, regarding operations under the Regional Order, for the purpose of clarifying the meaning and intent of the Regional Order and reducing ambiguity and confusion for local businesses;

Penalizing business owners via threat through coercion of fines, penalties and imprisonment is not "Mono County Health Officer" guidance. This is nothing more than deprivation of rights under color of law, without due process or just compensation.

NOW, THEREFORE, under the authority of California Health and Safety Code sections 101040, 101085 and 120175 and Title 17 California Code of Regulations, Section 2501, the Mono County Health Officer **HEREBY ORDERS** as follows:

NOW, THEREFORE the Town of Mammoth Lakes, Mono County, Southern California Region, and the State of California are in gross violation of the California Constitution and the United States Constitution. No emergency suspends established law. No governor can make a law. No health officer can make a law. All these orders, mandates, guidelines are color of law! Period!

1. Under the Regional Stay At Home Order, short-term lodging facilities (including, but not limited to, short-term rentals, vacation rentals, timeshares, private residence clubs, hotels, condos, campgrounds, RV Parks, and motels) (“Lodging Facilities”) within Mono County and the Town of Mammoth Lakes may remain open for the following purposes:
 - a. To serve as short-term lodging facilities for the following COVID-19 mitigation and containment measures:
 - i. Lodging to protect the homeless population and stranded travelers;
 - ii. Lodging for persons who have been displaced and cannot return to their residence because there is a person residing at the residence who must isolate or quarantine or is at a higher risk of severe illness, provided that the use is not inconsistent with State restrictions on travel within the Region or between Regions; and/or
 - iii. Lodging for persons who need to isolate or quarantine.
 - b. Except as otherwise required by law, to provide lodging for out-of-state residents for at least 10 days, where the persons identified in the reservation will quarantine in the Lodging Facility until after that time period has expired. Travel from out of state for non-essential purposes is strongly discouraged.
 - i. Quarantine means strictly avoiding physical proximity to other persons by remaining indoors in the place of residence or lodging.
 - ii. Lodging operators accepting reservations from persons arriving from out of state shall obtain information from the quarantining arrival regarding their plans to obtain meals and other essentials during the quarantine period. This information shall be made available to Mono County Public Health upon request.
 - c. Lodging Facilities which are used to house workers performing functions that are essential to maintain

the continuity of operations for critical infrastructure, as listed in the Essential Workers List, which may be reviewed at <https://covid19.ca.gov/essential-workforce/> but only to the extent and for the period of time necessary for such workers to perform such functions.

d. Lodging for persons who are displaced due to loss of homes from fire.

2. Under the Regional Order and State guidelines, except as otherwise required by law, no homeowner, agent of the homeowner, marketing agent, listing agent, real estate agent or other person or entity shall engage in efforts to rent or lease any Lodging Facility within the County of Mono for any purpose other than those identified in Paragraph 1 above. Specifically, there shall be no renting or leasing of a Lodging Facility for leisure or vacation travel, or for purposes other than those listed in paragraph 1.

3. In the event of a question or uncertainty as to whether a particular short-term lodging use falls within the above exemptions (i.e., whether it constitutes a mitigation or containment measure, or involves an essential worker, or whether the essential worker's essential functions require staying in lodging facilities within the County), a written determination or directive from the Unified Command Emergency Operations Center (EOC), Mono County Health Officer, Town of Mammoth Lakes Finance Department, or other personnel designated by the Mono County Emergency Operations Center to make such determinations, that the use is authorized, shall be adequate to authorize such use.

4. The owner of a unit (home, condo, or other property unit) may stay in their unit. This applies only to the owner and members of the owner's immediate household or living unit. If jointly owned, not more than one household/living unit may be present at a time. Under the State's regional Stay At Home Order, travel for leisure or recreational purposes is not allowed. In other words, units may not be made available for use by non-owners or others traveling for recreational or leisure purposes.

5. This Order shall be effective so long as the Southern Region remains subject to the Regional Order and shall remain in effect until the Southern Region is no longer subject to the Regional Order, or Mono County is otherwise released from

General Provisions

1. This Order is issued based on evidence of transmission of COVID-19, scientific evidence regarding the most effective approach to slow transmission of communicable diseases generally and COVID-19

specifically, as well as best practices as currently known and available to protect the public from the risk of spread of or exposure to COVID-19.

2. This Order is intended to reduce the likelihood of exposure to COVID-19, by addressing locations and activities within Mono County where the virus has most aggressively spread.

3. This Order is issued in accordance with, and incorporates by reference, the: March 4, 2020 Proclamation of a State Emergency issued by Governor Gavin Newsom; the March 15, 2020 Declaration of Local Health Emergency based on an imminent and proximate threat to public health from the introduction of novel COVID-19 in Mono County; the March 17, 2020 Resolution of the Board of Supervisors of the County of Mono proclaiming the existence of a Local Emergency in the County of Mono regarding COVID-19 and ratifying and extending the Declaration of Local Health Emergency due to COVID-19; Governor Newsom's Executive Order N-33-20 of March 19, 2020 ordering all persons to stay at home, except as otherwise authorized, to protect the health and well-being of all Californians and to establish consistency across the state in order to slow the spread of COVID-19; the California Department of Public Health's Regional Stay At Home Order issued December 3, 2020 and associated guidelines.

4. This Order is made in accordance with all applicable State and Federal laws, including but not limited to: Health and Safety Code sections 101030, et seq.; Health and Safety Code sections 120100, et seq.; and Title 17 of the California Code of Regulations section 2501.

5. This Order is made because of the propensity of the virus to spread person-to-person and also because the virus is causing physical property loss or damage due to its proclivity to attach to surfaces for prolonged periods of time.

6. Copies of this Order shall be promptly posted on the County of Mono's Public Health Department's website (monohealth.com). This Order shall additionally be provided to any member of the public upon request.