



**Committee** Directly to Council  
**Staff:** Robert H. Drummer, Senior Legislative Attorney  
**Purpose:** To introduce agenda item – no vote expected  
**Keywords:** #EnhancedCovidTesting  
Search terms—COVID-19, testing, emergency action

AGENDA ITEM #5B  
July 14, 2020  
Introduction

## SUBJECT

Resolution to adopt Board of Health Regulation requiring the Executive to immediately implement a comprehensive strategy for “free, no appointment, no referral, walk-up testing,” at sites available County-wide.

Lead Sponsor: County Council

## EXPECTED ATTENDEES

None

## COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- To introduce Resolution - No vote expected.

## DESCRIPTION/ISSUE

- Testing levels in Montgomery County continue to be inadequate and many residents have reported difficulty obtaining tests, lack of response when contacting the County to schedule tests, delayed turnaround in tests, lack of clarity about who should be tested, and other problems.

## SUMMARY OF KEY DISCUSSION POINTS

The need to increase testing for COVID-19 and perform contact tracing County-wide and targeting areas of the County that have been impacted the most by the virus.

### **This report contains:**

Staff Report

Regulation

Page 1

©1

**Alternative format requests for people with disabilities. If you need assistance accessing this report you may [submit alternative format requests](#) to the ADA Compliance Manager. The ADA Compliance Manager can also be reached at 240-777-6197 (TTY 240-777-6196) or at [adacompliance@montgomerycountymd.gov](mailto:adacompliance@montgomerycountymd.gov)**

**MEMORANDUM**

July 13, 2020

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: Resolution to adopt a Board of Health Regulation requiring enhanced testing for COVID-19

PURPOSE: Introduction – No Council vote required

On Tuesday, the Council, sitting as the Board of Health, is scheduled to introduce a Board of Health regulation requiring the Executive to immediately implement a comprehensive strategy for “free, no appointment, no referral, walk-up testing,” at sites available County-wide. The Regulation is sponsored by Lead Sponsor the County Council. A public hearing and action is tentatively scheduled for July 21.<sup>1</sup>

**Background**

On March 5, 2020, Lawrence Hogan, Jr., Governor of Maryland issued a proclamation declaring a state of emergency and existence of a catastrophic public health emergency due to the novel coronavirus which can cause the respiratory disease COVID-19.

According to the Harvard Global Health Institute, a community that has a 3% test positivity rate or lower is suppressing the COVID-19 virus if contact tracing programs are also driving testing. Presently, Montgomery County’s test positivity rate is about 5%, as published on our dashboard. While this is an improvement from earlier in the year, it is not where it must be to suppress the virus. The Montgomery County Department of Health and Human Services reported that the positivity rate is much higher for certain demographic groups, including 70% for Hispanics in the County’s top ten most impacted zip codes. A 70% positivity rate represents a severe crisis that must be addressed with the greatest urgency and resources.

Testing levels in Montgomery County continue to be inadequate and many residents have reported difficulty obtaining tests, lack of response when contacting the County to schedule tests, delayed turnaround in tests, lack of clarity about who should be tested, and other problems. To prevent

---

<sup>1</sup> #EnhancedCovidTesting

infections, avoid new stay home orders, and continue operating key services such as schools and childcare, the County must aggressively conduct testing, tracing and isolating/quarantine operations, in addition to sustained use of facial coverings, distancing, and shifting activity outdoors as much as possible. The Council has appropriated more than \$20 million of the \$183 million in Federal CARES Act funding for our testing program, an amount that could be too little for such an essential priority. Yet as of today, the County has only spent about \$1 million of these funds on testing.

Rule 4(d) of the Council's Rules of Procedure provide that before the Board of Health adopts a regulation, the Council President must advertise a public hearing in a newspaper circulated throughout the County at least 15 days before the hearing and notify the governing body or chief executive officer of each municipality in the County at least 15 days before the hearing. Rule 4(d) allows the President to waive these notice provisions if a public health emergency requires immediate action. The Council President has waived these notice requirements because of the public health emergency caused by COVID-19.

### **Provisions of the Board of Health Regulation**

The proposed Health Regulation contains the following provisions:

1. The County Executive must immediately implement a comprehensive strategy for "free, no appointment, no referral, walk-up testing," at sites available County-wide.
2. The Executive must first implement this enhanced testing in locations within walking distance of targeted communities experiencing higher transmission or at risk of higher transmission.
3. Fire station sites should be a priority consideration as they are well known by the community and they are staffed by EMS personnel.
4. Examples of other potential locations include religious institutions and libraries.
5. As soon as possible, the 10 most impacted zip codes should host 10 test sites available at least 8 hours per day, at least 5 days per week, within walking distance of known hot spots.
6. The Executive should include a plan to operate 35 test sites (approximating the number of fire stations in the County, which are distributed according to population) at least 8 hours per day, at least 5 days per week by July 28, 2020.
7. Existing test sites in Wheaton, Germantown and White Oak should continue to operate at their current schedule until at least 35 additional sites are operating at least 8 hours per day, at least 5 days per week.
8. Test sites must test all people identified in the latest CDC testing guidance. For some sites, symptomatic cases may be referred to alternative test sites operated by the County.
9. Tests must be provided to patients with no out-of-pocket expense.

10. Contractual staff support should be added as necessary to provide the testing sites called for in this public health regulation and to implement the digital and communications strategies necessary to implement the plan.
11. Scheduling for tests should be available online in mobile friendly technology; the scheduling site should also provide current turn-around times for different testing services (public and private).
12. A consumer friendly print and web guide to testing (public and private) should be published and distributed by the Department of Health and Human Services (DHHS) no later than July 28.
13. Additional pop-up test facilities should target specific residential communities and demographic groups in hardest hit zip codes.
14. Aggressive County communications campaigns, including paid advertising, must be implemented to urge testing according to CDC guidance.
15. A weekly report on testing must be provided by DHHS on the County website starting immediately, showing how many tests have been conducted at various County sites, the turnaround time for tests at all public and private sites, and other key health measures.
16. The Executive must submit a full and detailed plan, including testing strategy for schools, employers/employees in various sectors, and vulnerable communities to the Council by July 28. This plan must detail the relationship between testing, tracing, and isolating.

This packet contains:  
Regulation

Circle #

1

Resolution No.: \_\_\_\_\_  
Introduced: July 14, 2020  
Adopted: \_\_\_\_\_

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE MONTGOMERY COUNTY BOARD OF HEALTH

---

Lead Sponsor: County Council

---

Subject: **Board of Health Regulation requiring enhanced testing strategy for COVID-19**

Background

1. County Code §2-65, as amended effective August 10, 2000, provides that the County Council is, and may act as, the County Board of Health, and in that capacity may adopt any regulation which a local Board of Health is authorized to adopt under state law.
2. Maryland Code Health-General Article §3-202(d) authorizes the County Board of Health to adopt rules and regulations regarding any nuisance or cause of disease in the County.
3. On March 5, 2020, Lawrence Hogan, Jr., Governor of Maryland issued a proclamation declaring a state of emergency and existence of a catastrophic public health emergency due to the novel coronavirus which can cause the respiratory disease COVID-19.
4. According to the Harvard Global Health Institute, a community that has a 3% test positivity rate or lower is suppressing the COVID-19 virus if contact tracing programs are also driving testing.
5. Presently, Montgomery County's test positivity rate is about 5%, as published on our dashboard. While this is an improvement from earlier in the year, it is not where it must be to suppress the virus.
6. The Montgomery County Department of Health and Human Services reported that the positivity rate is much higher for certain demographic groups, including 70% for Hispanics in the County's top ten most impacted zip codes. A 70% positivity rate represents a severe crisis that must be addressed with the greatest urgency and resources.

7. Testing levels in Montgomery County continue to be inadequate and many residents have reported difficulty obtaining tests, lack of response when contacting the County to schedule tests, delayed turnaround in tests, lack of clarity about who should be tested, and other problems.
8. The COVID-19 virus is nearly uncontrolled in many locations outside of Maryland. A strong possibility exists that cases will rise back to levels that previously necessitated stay at home orders.
9. To prevent infections, avoid new stay home orders, and continue operating key services such as schools and childcare, the County must aggressively conduct testing, tracing and isolating/quarantine operations, in addition to sustained use of facial coverings, distancing, and shifting activity outdoors as much as possible.
10. The Council has appropriated more than \$20 million of the \$183 million in Federal CARES Act funding for our testing program, an amount that could be too little for such an essential priority. Yet as of today, the County has only spent about \$1 million of these funds on testing.
11. Montgomery County must improve its testing, tracing and isolating operations.
12. Rule 4(d) of the Council's Rules of Procedure provide that before the Board of Health adopts a regulation, the Council President must advertise a public hearing in a newspaper circulated throughout the County at least 15 days before the hearing and notify the governing body or chief executive officer of each municipality in the County at least 15 days before the hearing. Rule 4(d) allows the President to waive these notice provisions if a public health emergency requires immediate action. The Council President has waived these notice requirements because of the public health emergency caused by COVID-19.
13. The County Council, sitting as the Board of Health, finds after hearing the testimony and other evidence in the record of the public hearing concerning the need to enhance the County's testing, tracing, and isolating operations requires emergency action.

## Action

The County Council for Montgomery County, Maryland, sitting as the County Board of Health, approves the following regulation:

1. The County Executive must immediately implement a comprehensive strategy for “free, no appointment, no referral, walk-up testing,” at sites available county wide.
2. The Executive must first implement this enhanced testing in locations within walking distance of targeted communities experiencing higher transmission or at risk of higher transmission.
3. Fire station sites should be a priority consideration as they are well known by the community and they are staffed by EMS personnel.
4. Examples of other potential locations include religious institutions and libraries.
5. As soon as possible, the 10 most impacted zip codes should host 10 test sites available at least 8 hours per day, at least 5 days per week, within walking distance of known hot spots.
6. The Executive should include a plan to operate 35 test sites (approximating the number of fire stations in the County, which are distributed according to population) at least 8 hours per day, at least 5 days per week by July 28, 2020.
7. Existing test sites in Wheaton, Germantown and White Oak should continue to operate at their current schedule until at least 35 additional sites are operating at least 8 hours per day, at least 5 days per week.
8. Test sites must test all people identified in the latest CDC testing guidance. For some sites, symptomatic cases may be referred to alternative test sites operated by the County.
9. Tests must be provided to patients with no out-of-pocket expense.
10. Contractual staff support should be added as necessary to provide the testing sites called for in this public health regulation and to implement the digital and communications strategies necessary to implement the plan.
11. Scheduling for tests should be available online in mobile friendly technology; the scheduling site should also provide current turn-around times for different testing services (public and private).
12. A consumer friendly print and web guide to testing (public and private) should be published and distributed by the Department of Health and Human Services (DHHS) no later than July 28.
13. Additional pop-up test facilities should target specific residential communities and demographic groups in hardest hit zip codes.
14. Aggressive County communications campaigns, including paid advertising, must be implemented to urge testing according to CDC guidance.

15. A weekly report on testing must be provided by DHHS on the County website starting immediately, showing how many tests have been conducted at various County sites, the turnaround time for tests at all public and private sites, and other key health measures.
16. The Executive must submit a full and detailed plan, including testing strategy for schools, employers/employees in various sectors, and vulnerable communities to the Council by July 28. This plan must detail the relationship between testing, tracing, and isolating.

This is a correct copy of Council action.

---

Selena Mendy Singleton, Esq., Clerk of the Council