



Committee: Direct to Council

Committee Review: N/A

Staff: Robert H. Drummer, Senior Legislative Attorney

Purpose: To receive testimony/final action - vote expected

Keywords: #COVID19PublicHealthOrder

AGENDA ITEMS 2A & 2.1

February 9, 2021

Public Hearing/Action

SUBJECT

Resolution to approve Executive Order No. 19-21, COVID-19 Local Order – Amending and Restating Order dated December 15, 2020

Resolution to adopt a Board of Health Regulation concerning Executive Order No. 19-21, COVID-19 Local Order – Amending and Restating Order dated December 15, 2020

Lead Sponsor: County Council

EXPECTED ATTENDEES

Dr. Travis Gayles, County Health Officer

Dr. Earl Stoddard, Director of Emergency Management & Homeland Security

Silvia Kinch, County Attorney's Office

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Whether to modify the restrictions to limit the spread of COVID-19 due to the numbers of infections in the County.
- Executive Order No. 19-21 would permit limited indoor dining and clarify some existing provisions.

DESCRIPTION/ISSUE

On February 4, the Council introduced a resolution to approve Executive Order No. 19-21, COVID-19 Local Order – Amending and Restating Order dated December 15, 2020.

On February 4, the Council, sitting as the Board of Health, also introduced a resolution to approve Montgomery County Executive Order No. 19-21, COVID-19 Local Order – Amending and Restating Order dated December 15, 2020, as a Board of Health Regulation.

The Council is scheduled to hold a public hearing and act on both resolutions after the hearing.

SUMMARY OF KEY DISCUSSION POINTS

- Should the Council permit the reopening of indoor dining in a limited capacity in light of the reduction in the spread of COVID-19 throughout the County since indoor dining was prohibited and vaccines began to roll out?

This report contains:

Staff Report for Introduction

Proposed Resolution Approving Executive Order 19-21

Proposed Resolution Adopting the Board of Health Regulation

Executive Order No. 19-21, COVID-19 Local Order –

Amending and Restating Order dated December 15, 2020

Executive Order No. 19-21, showing changes

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MEMORANDUM

February 3, 2021

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: Resolution to approve Executive Order No. 19-21, COVID-19 Local Order – Amending and Restating Order dated December 15, 2020 and a resolution to adopt a Board of Health Regulation concerning Executive Order No. 19-21, COVID-19 Local Order – Amending and Restating Order dated December 15, 2020.

PURPOSE: Introduction – No Council vote required

On Thursday, February 4, the Council is scheduled to introduce a Resolution to approve Executive Order No. 19-21, COVID-19 Local Order – Amending and Restating Order dated December 15, 2020 sitting as the County Council. The Council is also scheduled to introduce, sitting as the Board of Health, a Resolution to adopt the Executive Order as a Board of Health Regulation.¹ The Board of Health Regulation is sponsored by the County Council. A public hearing is tentatively scheduled for February 9; Council action is tentatively scheduled to follow the public hearing.

Background

The Council has adopted several Resolutions approving Executive Orders related to the COVID health emergency:

- On May 15, 2020, the Council adopted Resolution No. 19-456 approving Executive Order No. 067-20, COVID-19 Local Order. EO 067-20 continued the stay at home order of the Governor for the County until certain criteria in slowing the spread of the COVID-19 virus are met.
- The County's Local Health Officer, Dr. Travis Gayles, determined that certain criteria were met that would permit a Phase 1 reopening. County Executive Elrich signed EO 070-20, COVID-19 Local Order – Phase 1 permitting certain businesses and activities to operate again in the County as of June 1, 2020. On May 29, 2020, the Council adopted Resolution No. 19-485 approving Executive Order 070-20. On the same day, the Council, sitting as the Board of Health, also adopted Resolution No. 19-484 adopting the Executive Order as a Board of Health Regulation.

¹#COVID19PublicHealthOrder

- The Executive, after consulting with Dr. Gayles, determined that enough progress was made to begin Phase 2 on Friday, June 19. Executive Order 082-20, COVID-19 Local Order – Phase 2 lifted part of the stay at home order and moved the County into Phase 2. On June 16, 2020, the Council adopted Resolution No. 19-496 approving Executive Order 082-20. On the same day, the Council, sitting as the Board of Health, also adopted Resolution No. 19-497 adopting the Executive Order as a Board of Health Regulation.
- On August 4, 2020, the Council adopted Resolution No. 19-579 approving Executive Order 087-20, COVID-19 Local Order – Amending and Restating Order dated June 19, 2020. The Council, sitting as the Board of Health also adopted Resolution No. 19-578 adopting the Executive Order as a Board of Health Regulation on August 4.
- On August 24, 2020, the Council adopted Resolution No. 19-583 approving Executive Order 098-20, COVID-19 – Local Order Amending and Restating Order dated August 5, 2020. The Council, sitting as the Board of Health, also adopted Resolution No. 19-584 approving the Executive Order as a Board of Health Regulation.
- On September 22, 2020, the Council adopted Resolution No. 19-598 approving Executive Order 114-20, COVID-19 – Local Order Amending and Restating Order dated August 24, 2020. The Council, sitting as the Board of Health, also adopted Resolution No. 19-599 approving the Executive Order as a Board of Health Regulation.
- On October 1, 2020, the Council adopted Resolution No. 19-617 approving Executive Order 117-20, COVID-19 – Local Order Amending and Restating Order dated September 22, 2020. The Council, sitting as the Board of Health, also adopted Resolution No. 19-618 approving the Executive Order as a Board of Health Regulation.
- On November 10, 2020, the Council adopted Resolution No. 19-641 approving Executive Order 122-20 AM, COVID-19 – Local Order Amending and Restating Order dated September 29, 2020. The Council, sitting as the Board of Health, also adopted Resolution No. 19-642 approving the Executive Order as a Board of Health Regulation.
- On December 11, 2020, the Executive issued Executive Order No. 139-20AM, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020, which clarified the restrictions on childcare providers and updated the link to the American Academy of Pediatrics guidance on face coverings.
- On December 14, 2020, the Executive issued Executive Order No. 139-20AM2, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020. The amended Executive Order 139-20AM2, in addition to the changes made by Executive Order 139-20 and Executive Order 39-20AM, adds language permitting a large retail establishment to exceed the 150 person limit if the retail establishment is large enough to limit capacity to 1 person per 200 sq. ft. of retail space and has received written approval from the County.
- On December 15, 2020, the Council approved Resolution No. 19-698 approving Executive Order No. 139-20AM2 and Resolution No. 19-699 adopting Executive Order No. 139-20AM2 as a Board of Health Regulation.

On February 2, 2021, the Executive issued Executive Order No. 19-21, COVID-19 – Local Order Amending and Restating Order dated December 15, 2020, which permitted indoor dining in food service establishments on a limited basis and made several other clarifying changes.

Executive Order 19-21

Executive Order 19-21 is based on the Governor's Executive Order 21-01-28-01, issued on January 28, 2021, renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order Number 21-01-28-01, if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19. If approved by the Council, Executive Order 19-21 would:

Reopen indoor dining at 25% capacity, suspend alcohol sales at 10 p.m. and limit indoor dining to a one-hour dining period. Additional changes include:

- general housekeeping (updating references and links to State of Emergency/CHE renewals and current State Executive Order);
- updated the link to the American Academy of Pediatrics Face Covering exceptions (paragraph 2.vii.) (added the word "certain" to show that AAP now recommends that children refrain from wearing face coverings only while engaging in *certain* sports);
- removed deadline references for letter of approval requests for retail to exceed 150 persons (paragraph 6.j.); and
- reorganized the Foodservice Establishment section (6.e.) to, hopefully, make it easier to read.

Proposed effective date would be February 9 at 5 pm.

A copy of the signed Executive Order 19-21 is at ©10-22. A copy of the Executive Order showing changes from the last Order is at ©23-36.

Board of Health Regulation

The Board of Health Regulation would approve and adopt the terms of Executive Order No. 19-21, COVID-19 Local Order – Amending and Restating Order dated December 15, 2020, which was signed by County Executive Elrich on February 2, 2021, as a Board of Health Regulation applicable throughout the County, effective February 9, 2021 at 5 pm.

This packet contains:

	<u>Circle #</u>
Proposed Resolution Approving Executive Order 19-21	1
Proposed Resolution Adopting the Board of Health Regulation	5
Executive Order No. 19-21, COVID-19 Local Order – Amending and Restating Order dated December 15, 2020	10
Executive Order No. 19-21 showing changes	23

Resolution No.:	_____
Introduced:	February 4, 2021
Adopted:	_____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY MARYLAND**

Lead Sponsor: County Council

SUBJECT: Approval of Executive Order No. 19-21, COVID-19 Local Order – Amending and Restating Order dated December 15, 2020

Background

1. Governor Lawrence J. Hogan proclaimed a state of emergency and catastrophic health emergency on March 5, 2020, and renewed it on March 17, 2020, April 10, 2020, May 6, 2020, June 3, 2020, July 1, 2020, July 30, 2020, August 10, 2020, September 8, 2020, October 6, 2020, October 29, 2020, and November 25, 2020, December 23, 2020, and January 21, 2021 to control and prevent the spread of the Novel Coronavirus (“SARS-CoV-2”) and the disease that it causes - Coronavirus Disease 2019 (“COVID-19”).
2. Local officials must be vigilant in advising all individuals in the County of measures they must take to protect health, safety, and welfare of all.
3. The currently known and available scientific evidence and best practices support continued limitations on large gatherings, increased use of face coverings, and continued social distancing to prevent exposures and transmissions, and reduce the threat to especially vulnerable members of the population.
4. The Centers for Disease Control (CDC) advises that social distancing is the most effective way of slowing the spread of COVID-19. The serious health risk to County residents continues despite efforts to require social distancing.
5. On May 13, 2020 Governor Hogan issued State Executive Order 20-05-13-01 that continued to restrict gatherings of more than ten people for social, community, recreational, leisure, and sporting activities and events, requires the continued closure of certain non-essential businesses, and allows for the limited re-opening of certain businesses and activities under certain conditions. The Governor authorized Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by the State Executive Order if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19.
6. On May 15, 2020, the Executive issued Montgomery County Executive Order 067-20, COVID-19 Local Order, which was more restrictive than State Executive

Order 20-05-13-01 and included criteria for safely lifting the stay at home order and beginning to reopen businesses.

7. On May 27, 2020 the Governor issued State Executive Order 20-05-27-01 further expanding reopening of certain businesses and facilities, subject to local regulations.
8. On May 28, Montgomery County had demonstrated significant progress and trends towards meeting much of the criteria listed in County Executive Order 067-20.
9. On May 28, 2020, County Executive Elrich issued Executive Order No. 070-20, COVID-19 Local Order – Phase 1, reducing some of the stay at home restrictions in the County beginning on June 1, 2020.
10. On June 10, 2020, Governor Hogan issued Executive Order 20-06-10-01 lifting more restrictions in the State but again gave Maryland Counties the authority to continue to impose limitations on business and personal activities that were more restrictive than those permitted under the Governor’s Executive Order.
11. On June 15, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations that are more restrictive than the Governor’s Order to prevent the spread of COVID-19 but that some restrictions could be lifted. The Executive issued an Executive Order on June 15 and amended it on June 16. EO 082-20, COVID-19 Local Order – Phase 2, moved the County into Phase 2 by lifting the stay at home order and certain other restrictions on businesses and activities.
12. On August 3, 2020, Governor Hogan issued Executive Order 20-08-03-01 renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order Number 20-08-03-01, if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID- 19.
13. On August 3, 2020, County Executive Elrich, after consulting with the County Health Officer, determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-08-03-01 in order to prevent the spread of COVID-19 and issued Executive Order No. 087-20, COVID-19 Local Order – Amending and Restating Order dated June 19, 2020. The Council approved Executive Order No. 087-20 on August 4, 2020 in Resolution No. 19-579. The Council approved Executive Order No. 098-20 on August 24, 2020 in Resolution No. 19-583.
14. On September 18, 2020, Governor Hogan issued State Executive Order 20-09-18-01 renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order 20-09-18-01, if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19.

15. On September 21, 2020, the Executive issued Executive Order No. 114-20, COVID-19 Local Order – Amending and Restating Order dated August 24, 2020, which imposed limitations on business and personal activities that are more restrictive than those permitted under State Executive Orders, but lessens the restrictions on certain businesses and activities. The Council adopted Resolution No. 19-598 approving Executive Order 114-20 on September 22, 2020.
16. On September 26, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-09-18-01 in order to prevent the spread of COVID-19.
17. On September 26, 2020, the Executive issued Executive Order 117-20, COVID-19 – Local Order Amending and Restating Order dated September 22, 2020. Executive Order 117-20 allows certain food service establishments to apply for a Late-Night Alcohol Sales Program permit. The Council adopted Resolution No. 19-617 approving Executive Order 117-20 on October 1, 2020.
18. On November 3, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-10-16-02 in order to prevent the spread of COVID-19.
19. On November 3, 2020, the Executive issued Executive Order No. 122-20, COVID-19 – Local Order Amending and Restating Order dated September 29, 2020 which amends the limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-10-16-02 in order to prevent the spread of COVID-19.
20. The Council held a public hearing and worksession on Executive Order 122-20 on November 5. Based on the November 5 Council meeting, the Executive submitted Executive Order 122-20 AM on November 6, 2020.
21. On November 10, 2020, the Council adopted Resolution No. 19-641 approving Executive Order 122-20 AM, COVID-19 – Local Order Amending and Restating Order dated September 29, 2020. The Council, sitting as the Board of Health, also adopted Resolution No. 19-642 approving the Executive Order as a Board of Health Regulation.²³.
22. On November 17, 2020, Governor Hogan issued Executive Order 20-11-17-01 renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order Number 20-11-17-01, if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID- 19.
23. On December 9, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-11-17-01 in order to prevent the spread of COVID-19.

24. On December 9, 2020, the Executive issued Executive Order No. 139-20, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020, which expands the limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-11-17-01 in order to prevent the spread of COVID-19.
25. On December 11, 2020, the Executive issued Executive Order No. 139-20AM, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020, which clarified the restrictions on childcare providers and updated the link to the American Academy of Pediatrics guidance on face coverings.
26. On December 14, 2020, the Executive issued Executive Order No. 139-20AM2, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020. The amended Executive Order 139-20AM2, in addition to the changes made by Executive Order 139-20 and Executive Order 139-20AM, adds language permitting a large retail establishment to exceed the 150 person limit if the retail establishment is large enough to limit capacity to 1 person per 200 sq. ft. of retail space and has received written approval from the County.
27. On December 15, 2020, the Council approved Resolution No. 19-698 approving Executive Order No. 139-20AM2 and Resolution No. 19-699 adopting Executive Order No. 139-20AM2 as a Board of Health Regulation.
28. On February 2, 2021, the Executive issued Executive Order No. 19-21, COVID-19 – Local Order Amending and Restating Order dated December 15, 2020, which permitted indoor dining in food service establishments on a limited basis and made several other clarifying changes.
29. The Council held a public hearing and worksession on Executive Order 19-21 on February 9.

Action

The County Council for Montgomery County Maryland approves the following resolution:

The Council declares that acting on this Resolution is an emergency and approves Executive Order No. 19-21, COVID-19 Local Order – Amending and Restating Order dated December 15, 2020. This Local Order takes effect on February 9, 2021 at 5:00 p.m.

This is a correct copy of Council action.

Selena Mendy Singleton, Esq., Clerk of the Council

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Resolution No.: _____
Introduced: February 4, 2021
Adopted: _____

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

Lead Sponsor: County Council

Subject: Board of Health Regulation adopting Executive Order No. 19-21, COVID-19 Local Order – Amending and Restating Order dated December 15, 2020.

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. Governor Lawrence J. Hogan proclaimed a state of emergency and catastrophic health emergency on March 5, 2020, and renewed it on March 17, 2020, April 10, 2020, May 6, 2020, June 3, 2020, July 1, 2020, July 30, 2020, August 10, 2020, September 8, 2020, October 6, 2020, October 29, 2020, and November 25, 2020, December 23, 2020, and January 21, 2021 to control and prevent the spread of the Novel Coronavirus (“SARS-CoV-2”) and the disease that it causes - Coronavirus Disease 2019 (“COVID-19”).
4. The effects of COVID-19 require that local health officials be vigilant in advising the residents of measures they can take to protect health, safety, and welfare.
5. The currently known and available scientific evidence and best practices support continued limitations on large gatherings, increased use of face coverings, and continued social distancing to prevent exposures and transmissions, and reduce the threat to especially vulnerable members of the population.
6. The COVID-19 virus is nearly uncontrolled in many locations in Maryland. A strong possibility exists that cases will rise back to levels that previously necessitated stay at home orders.
7. On May 13, 2020 Governor Hogan issued State Executive Order 20-05-13-01 that continued to restrict gatherings of more than ten people for social, community,

recreational, leisure, and sporting activities and events, requires the continued closure of certain non-essential businesses, and allows for the limited re-opening of certain businesses and activities under certain conditions. The Governor authorized Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by the State Executive Order if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19.

8. On May 15, 2020, the Executive issued Montgomery County Executive Order 067-20, COVID-19 Local Order, which was more restrictive than State Executive Order 20-05-13-01 and included criteria for safely lifting the stay at home order and beginning to reopen businesses.
9. On May 27, 2020 the Governor issued State Executive Order 20-05-27-01 further expanding reopening of certain businesses and facilities, subject to local regulations.
10. On May 28, Montgomery County had demonstrated significant progress and trends towards meeting much of the criteria listed in County Executive Order 067-20.
11. On May 28, 2020, County Executive Elrich issued Executive Order No. 070-20, COVID-19 Local Order – Phase, reducing some of the stay at home restrictions in the County beginning on June 1, 2020.
12. On June 10, 2020, Governor Hogan issued Executive Order 20-06-10-01 lifting more restrictions in the State but again gave Maryland Counties the authority to continue to impose limitations on business and personal activities that were more restrictive than those permitted under the Governor’s Executive Order.
13. On June 15, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations that are more restrictive than the Governor’s Order to prevent the spread of COVID-19 but that some restrictions could be lifted. The Executive issued an Executive Order on June 15 and amended it on June 16. EO 082-20, COVID-19 Local Order – Phase 2, moved the County into Phase 2 by lifting the stay at home order and certain other restrictions on businesses and activities.
14. On August 3, 2020, Governor Hogan issued Executive Order 20-08-03-01 renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order Number 20-08-03-01, if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID- 19.
15. On August 3, 2020, County Executive Elrich, after consulting with the County Health Officer, determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-08-03-01 in order to prevent the spread of

COVID-19 and issued Executive Order No. 087-20, COVID-19 Local Order – Amending and Restating Order dated June 19, 2020. The Council approved Executive Order No. 087-20 on August 4, 2020 in Resolution No. 19-579.

16. On August 21, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-08-03-01 in order to prevent the spread of COVID-19.
17. On August 21, 2020, the Executive issued Executive Order No. 098-20, COVID-19 Local Order – Amending and Restating Order dated August 5, 2020, which imposed limitations on business and personal activities that are more restrictive than those permitted under State Executive Orders, but lessens the restrictions on certain businesses and activities. The Council approved Executive Order No. 098-20 on August 24, 2020 in Resolution No. 19-583.
18. On September 18, 2020, Governor Hogan issued State Executive Order 20-09-18-01 renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order 20-09-18-01, if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19.
19. On September 21, 2020, the Executive issued Executive Order No. 114-20, COVID-19 Local Order – Amending and Restating Order dated September 22, 2020, which imposed limitations on business and personal activities that are more restrictive than those permitted under State Executive Orders, but lessens the restrictions on certain businesses and activities. On September 22, 2020, the Council adopted Resolution No. 19-598, which approved Executive Order 114-20.
20. On September 26, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-09-18-01 in order to prevent the spread of COVID-19.
21. On September 26, 2020, the Executive issued Executive Order No. 117-20, COVID-19 – Local Order Amending and Restating Order dated September 22, 2020, which allows certain food service establishments to apply for a Late-Night Alcohol Sales Program permit. The Council approved Executive Order 117-20 on October 1, 2020 and the Board of Health approved Executive Order 117-20 as a Board of Health Regulation on October 1, 2020 in Resolution No. 19-618.
22. On October 16, 2020, Governor Hogan issued Executive Order 20-10-16-02 renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order Number 20-10-16-02, if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19.

23. On November 3, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-10-16-02 in order to prevent the spread of COVID-19.
24. On November 3, 2020, the Executive issued Executive Order No. 122-20, COVID-19 – Local Order Amending and Restating Order dated September 29, 2020 which amends the limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-10-16-02 in order to prevent the spread of COVID-19.
25. The Council held a public hearing and worksession on Executive Order 122-20 on November 5. Based on the November 5 Council meeting, the Executive submitted Executive Order 122-20 AM on November 6, 2020.
26. On November 10, 2020, the Council adopted Resolution No. 19-641 approving Executive Order 122-20 AM, COVID-19 – Local Order Amending and Restating Order dated September 29, 2020. The Council, sitting as the Board of Health, also adopted Resolution No. 19-642 approving the Executive Order as a Board of Health Regulation.
27. On November 17, 2020, Governor Hogan issued Executive Order 20-11-17-01 renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order Number 20-11-17-01, if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID- 19.
28. On December 9, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-11-17-01 in order to prevent the spread of COVID-19.
29. On December 9, 2020, the Executive issued Executive Order No. 139-20, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020, which expands the limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-11-17-01 in order to prevent the spread of COVID-19.
30. On December 11, 2020, the Executive issued Executive Order No. 139-20AM2, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020, which clarified the restrictions on childcare providers and updated the link to the American Academy of Pediatrics guidance on face coverings.
31. On December 14, 2020, the Executive issued Executive Order No. 139-20AM2, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020. The amended Executive Order 139-20AM2, in addition to the changes made by Executive Order 139-20 and Executive Order 139-20AM, adds language permitting a

large retail establishment to exceed the 150 person limit if the retail establishment is large enough to limit capacity to 1 person per 200 sq. ft. of retail space and has received written approval from the County.

32. On December 15, 2020, the Council approved Resolution No. 19-698 approving Executive Order No. 139-20AM2 and Resolution No. 19-699 adopting Executive Order No. 139-20AM2 as a Board of Health Regulation.
33. On February 2, 2021, the Executive issued Executive Order No. 19-21, COVID-19 – Local Order Amending and Restating Order dated December 15, 2020, which permitted indoor dining in food service establishments on a limited basis and made several other clarifying changes.
34. The Council held a public hearing and worksession on Executive Order 19-21 on February 9.
35. 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.
36. The County Council, sitting as the Board of Health, finds after hearing the testimony and other evidence in the record of the public hearing, finds that the limitations on business and personal activities contained in Executive Order No. 19-21, COVID-19 – Local Order Amending and Restating Order dated December 15, 2020 are necessary to limit the spread of COVID-19.

Action

The County Council for Montgomery County, Maryland, sitting as the County Board of Health, declares that adopting this Board of Health Regulation is an emergency and approves the following regulation:

Executive Order No. 19-21, COVID-19 – Local Order Amending and Restating Order dated December 15, 2020, attached hereto, is adopted as a Board of Health Regulation for Montgomery County and takes effect on February 9, 2021 at 5:00 p.m.

This is a correct copy of Council action.

Selena Mendy Singleton, Esq., Clerk of the Council

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MONTGOMERY COUNTY EXECUTIVE ORDER

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject COVID-19 – Local Order Amending and Restating Order dated December 15, 2020	Executive Order No. 19-21	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 2/9/2021

BACKGROUND

WHEREAS, a state of emergency and catastrophic health emergency was proclaimed by Lawrence J. Hogan, the Governor of the State of Maryland on March 5, 2020, and renewed on March 17, 2020, April 10, 2020, May 6, 2020, June 3, 2020, July 1, 2020, July 30, 2020, August 10, 2020, September 8, 2020, on October 6, 2020, October 29, 2020, November 25, 2020, December 23, 2020, and on January 21, 2021 to control and prevent the spread of COVID-19 within the state, and the state of emergency and catastrophic health emergency still exists;

WHEREAS, the effects of COVID-19 require that local officials be vigilant in advising all individuals in Montgomery County, Maryland of measures they can take to protect health, safety, and welfare;

WHEREAS, the currently known and available scientific evidence and best practices support continued limitations on large gatherings, increased use of face coverings, and continued social distancing to prevent exposures and transmissions, and reduce the threat to especially vulnerable populations, including older individuals and those with chronic health conditions;

WHEREAS, to reduce the threat to human health caused by transmission of COVID-19 and to protect and save lives, it is necessary and reasonable that individuals in the Montgomery County continue to engage in social distancing, use of face coverings, and refrain from congregating in large groups;

WHEREAS, it continues to be necessary to control and direct the occupancy and use of buildings and premises, as well as places of amusement and assembly within Montgomery County;

WHEREAS, on January 28, 2021, Governor Hogan issued State Executive Order [21-01-28-01](#), which renews the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order [21-01-28-01](#) if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19; and

WHEREAS, Montgomery County has determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order [21-01-28-01](#) in order to prevent the spread of COVID-19;

NOW, THEREFORE, BE IT ORDERED, PURSUANT TO THE AUTHORITY GRANTED IN GOVERNOR HOGAN'S EXECUTIVE ORDER [21-01-28-01](#) AND IN AN EFFORT TO PROTECT THE



MONTGOMERY COUNTY EXECUTIVE ORDER

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Subject COVID-19 – Local Order Amending and Restating Order dated December 15, 2020	Executive Order No. 19-21	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 2/9/2021

PUBLIC HEALTH, WELFARE, AND SAFETY, AND CONTROL AND PREVENT THE SPREAD OF COVID-19 WITHIN MONTGOMERY COUNTY, I HEREBY ORDER:

1. Administrative and Implementing Provisions.

This County Executive Order Number 067-20 dated May 15, 2020, as amended and restated by Order No. 070-20 dated May 28, 2020, as amended and restated by Order No. 082-20, as amended and restated by Order No. 087-20, as amended and restated by Order No. 098-20, as amended and restated by Order No. 114-20, as amended and restated by Order No. 117-20, as amended and restated by Order No. 122-20AM, as amended and restated by Order 139-20AM2, and as further amended and restated in its entirety as set forth herein.

2. Face Coverings.

a. Definitions.

- i. "Face Covering" means a covering that fully covers a person's nose, mouth, and chin and is secured to the person's head. The term "Face Covering" includes, without limitation, cloth face coverings, scarves, and bandanas. The term excludes Medical-Grade Masks.
- ii. Use of the following does not satisfy the County's Face Covering mandate:
 - (1) wearing a face covering with a valve; or
 - (2) solely wearing a face shield.
- iii. "Medical-Grade Mask" means an N95, KN95, surgical, or other mask that would be appropriate for a health care setting.
- iv. "Public Transportation" means shared-ride surface transportation services that are open to the general public, including without limitation, taxi services, ride-sharing services, car services, and transit services operating within Montgomery County. Examples of Public Transportation include, but are not limited, to Ride-On bus service, WMATA bus and train service, MARC train service, and Mobility and Paratransit services.

b. Requirement.

- i. Except as provided in paragraph 2.c below, all persons in the County over the age of two (2) years old are required to wear a Face Covering when
 - (1) in or on any form of Public Transportation;
 - (2) indoors at any location where members of the public are generally permitted, including without limitation, Religious Facilities, Retail Establishments, Foodservice Establishments, Fitness Centers, Gaming Facilities, Indoor Recreation Establishments, and Personal Services Establishments;



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- (3) leaving their residences and likely to come into contact with another person, such as being within 6 feet of another person for more than a fleeting time;
- (4) obtaining healthcare services, including without limitation, in offices of physicians and dentists, hospitals, pharmacies, and laboratories; and
- (5) engaged in work in any area where:
 - a. interaction with others is likely, including without limitation, in shared areas of commercial offices; or
 - b. food is prepared or packaged;
- (6) at all times in a foodservice establishment unless actively engaged in eating or drinking.
- ii. Single-use Face Coverings shall be properly discarded in trash receptacles. It is recommended that all reusable Face Coverings be cleaned frequently (at least once per day).
- iii. Wearing a Medical-Grade Mask satisfies any requirement in paragraph 2.b to wear a Face Covering, but all persons in Montgomery County are urged to reserve Medical-Grade Masks for use by health care workers and first responders.
- c. Exceptions. Paragraph 2.b does not require persons to wear Face Coverings:
 - i. if, due to a bona fide disability or medical condition, it would be unsafe for the person to do so;
 - ii. to the extent wearing a Face Covering would impede communication by or with persons who have a hearing impairment or other disability, where the ability to see the mouth is essential for communication;
 - iii. if wearing a Face Covering would subject the person to an unsafe working condition, as determined by federal, state, or local occupational safety regulators or workplace safety guidelines;
 - iv. to the extent wearing a Face Covering would make it impossible to receive services requiring access to the face, mouth, or head, including without limitation, dental care, shaving, and facial treatments;
 - v. while actively engaged in eating or drinking;
 - vi. while swimming or engaging in other physical activities where the use of a Face Covering is likely to pose a bona fide safety risk;
 - vii. for individuals under the age of eighteen (18) when actively engaged in certain sports – as recommended by the [American Academy of Pediatrics](#); or
 - viii. while operating any Public Transportation conveyance, provided that the person is (1) the sole operator of the conveyance, and (2) located in a separate compartment that is off-limits to riders.



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3. General Operating Requirements.

- a. Unless explicitly stated in another provision of this order, all businesses, organizations, establishments, and facilities that are permitted to operate under this Order shall, as a condition of their continued operation:
 - i. require employees and customers to maintain social distancing of greater than 6 feet, whenever possible, as recommended by the Centers for Disease Control and Prevention (“CDC”) and the Maryland Department of Health (“MDH”);
 - ii. utilize markings and signage to guide employees and customers;
 - iii. comply with the Face Covering requirements in paragraph 2.b;
 - iv. provide employees with guidance and training to reflect updated CDC guidelines for their workplace;
 - v. use CDC and Environmental Protection Agency (“EPA”) approved disinfectants to clean spaces daily; including use of disinfectants to wipe down high contact surfaces at least once every 2 hours while staff or customers are present (“high contact surfaces” are surfaces that will have human contact at least once an hour);
 - vi. require employees to wash their hands hourly; and
 - vii. follow review and implement new CDC, MDH, and Montgomery County Department of Health & Human Services (“DHHS”) guidelines as they are issued.
- b. All businesses, organizations, establishments, and facilities in Montgomery County shall comply with any directive or orders issued by the Local Health Officer, pursuant to State Executive Orders [20-04-05-02](#) (“Delegating Authority to Local Officials to Control and Close Unsafe Facilities”) and [21-01-28-01](#) (“Amending and Restating the Order of November 17, 2020, Regulating Certain Businesses and Facilities and Generally Requiring Use of Face Coverings”), as may be amended from time to time.
- c. All businesses, organizations, establishments, and facilities that are permitted to open shall post signage indicating that they are in compliance with all provisions of paragraph 3.a of this Order.
- d. Unless explicitly stated to the contrary, the General Operating requirements apply to all provisions in this order.

4. Letters of Approval.

- a. Requests for a Letter of Approval must be submitted a minimum of 5 business days before the scheduled event. Failure to submit a timely request will result in an automatic denial of the Letter of Approval.



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- b. Failure to obtain a Letter of Approval prior to proceeding with an event will be considered to be a violation of this Order and could subject the requestor, organizer, and venue to the appropriate fines and sanctions pursuant to paragraph 12 of this Order.
- c. Any person, organizer, or venue who is found to have held an event without a Letter of Approval will be automatically disqualified from receiving a future Letter of Approval.

5. Gatherings.

- a. Unless explicitly stated in another paragraph of this Order:
 - i. Outdoor gatherings of more than 25 people continue to be prohibited at all locations and venues, including but not limited to parties, receptions, parades, festivals, conventions, and fundraisers.
 - ii. Indoor gatherings of more than 10 people are prohibited.
 - iii. Planned large gatherings and events must be canceled or postponed until after termination of the state of emergency and the proclamation of the catastrophic health emergency has been rescinded.
 - iv. Social, community, recreational, and leisure gatherings must follow the following physical precautions:
 - (1) for indoor gatherings 1 person or household per 200 sq. ft or a maximum of 10 people, whichever number is lower;
 - (2) for outdoor gatherings 1 person or household per 200 sq. ft or a maximum of 25 people, whichever number is lower; and
 - (3) the size of the location and venue must accommodate applicable social distancing for the number of attendees.
 - v. Social gatherings, for the purposes of this Executive Order, shall also include all non-professional sports gatherings and events.
 - vi. A social gathering is a gathering of persons from more than one household. If more than one household is present at a gathering each individual present at the gathering must be counted for purposes of determining compliance.

6. Businesses, Organizations, Establishments and Facilities That May Be Open.

- a. *Bowling alleys.* May open provided:
 - i. number of persons is limited to 25% occupancy or a maximum of 25 people, whichever number is lower;
 - ii. all equipment (balls, shoes, etc.) and spaces (lanes, tables, seats) must be cleaned between each person(s) or group's use with CDC and EPA approved cleaners; and
 - iii. any foodservice establishment located within the bowling alley must conform to all of the standards as established in paragraph 6.e. of this Order.



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- b. *Childcare.* Must continue to follow the phase two childcare capacity limits and child-adult ratios that are currently in effect for all childcare providers in Montgomery County as stated in the Maryland Department of Education’s [June 10, 2020 Child Care Operating Procedures](#) and [November 19, 2020 waiver letter](#).
- c. *Cigar Bars/Hookah Bars/Vape Shops.* May open solely to sell retail goods. Smoking on site is strictly prohibited.
- d. *Fitness Centers.* May open provided:
 - i. limit 1 person per 200 sq. ft. of indoor space or 25% occupancy, whichever number is lower;
 - ii. strictly enforce social distancing and the requirement that individuals wear masks while exercising; and
 - iii. follow the State’s [Best Practices for Fitness Centers, Martial Arts, Dance Studios](#) as amended from time to time.
 - iv. Fitness Centers include, but are not limited to dance studios, health clubs, health spas, gyms, training facilities, and other indoor physical activities.
 - v. Fitness Centers that provide sport-specific training for high-risk sports as defined in [Maryland Sports Commission Return to Play Report](#) must follow the restrictions in paragraph 6.1 below.
- e. *Foodservice Establishments.*
 - i. Restaurants, bars, and other similar establishments that sell food or beverages for consumption on-premises in Montgomery County and social and fraternal clubs with dining facilities (collectively “Foodservice Establishments”) may, to the extent permitted by applicable law:
 - (1) serve food and beverages to customers for consumption in indoor seating areas up to a maximum of 25% of the establishment’s maximum occupancy;
 - (2) serve food and beverages to customers for consumption in outdoor seating areas pursuant to paragraph 6.e.iii;
 - (3) sell food and beverages that are promptly taken from the premises, i.e., on a carry-out or drive-through basis; and
 - (4) deliver food and beverages to customers off the premises.
 - ii. Foodservice Establishments must:
 - (1) require all staff to wear Face Coverings pursuant to paragraph 2 of this Order;
 - (2) require all customers to wear Face Coverings unless actively engaged in the act of eating or drinking (e.g. while seated at the table and talking but not eating or drinking);



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- (3) ensure that all alcoholic beverages are off all tables and collected from customers by 10 p.m.;
 - (4) suspend the sale or provision of alcoholic beverages for on-site consumption after 10 p.m.;
 - (5) maintain a daily record of the following information for at least 30 days, to assist with contact tracing:
 - a. date;
 - b. time; and
 - c. name and contact information for at least one person of each dining party;
 - (6) limit customers in indoor dining to a one-hour dining period;
 - a. “dining period” is defined as the period of time from when the customer is seated until the time the customer exits the establishment after consumption of their food and/or beverage.
 - (7) follow all provisions of the MDH’s Amended Directive and Order Regarding Food Service Establishments ([Order No. MDH 2020-11-17-03](#)), as may be amended from time to time, that do not conflict with any provision of this Order; and
 - (8) post signage at each outdoor dining entrance advising customers and visitors that:
 - a. they must comply with the Face Covering requirements at all times when they are not actively eating or drinking;
 - b. they must maintain social distancing of at least 6 feet when waiting to be seated; and
 - c. failure to wear Face Coverings or maintain social distancing may result in their being refused service and found to be in violation of the COVID-19 Local Order and subject to criminal penalties as stated in the Order.
- iii. Foodservice Establishments that erect a temporary outdoor structure, such as a tent, for the purpose of outdoor dining:
- (1) must follow all guidelines issued by DHHS and DPS and obtain any necessary permits from the Department of Permitting Services for the temporary structure;
 - (2) temporary outdoor structures that are in the shape of a rectangle, must at all times maintain at least one side of the structure entirely open;
 - (3) temporary outdoor structures that are not in the shape of a rectangle (e.g. yurts or dining bubbles) must apply for and obtain a Letter of Approval before being used by the food service establishment;



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(4) total capacity for a temporary outdoor structure may not exceed 1 table per every 50 sq. ft, but there must be a minimum of 6 ft between persons seated at different tables.

f. *Malls.*

- i. Shopping centers with one or more enclosed pedestrian concourses may maintain pedestrian concourses and other interior common areas open, but solely to the extent necessary for the general public to enter and exit retail establishments.
- ii. Food courts located inside indoor malls shall be limited to carry-out services only; dining at tables or other spaces in food courts is prohibited.
- iii. Congregating in any indoor area outside of retail stores (including food courts) is prohibited.
- iv. Malls shall remove tables, chairs, benches, or any other items which could encourage congregating from food courts and other indoor areas outside of retail stores.

g. *Museums and Art Galleries.* May open provided:

- i. limit 1 person per 200 sq. ft of exhibit-space or in-store space or 25% occupancy, whichever number is lower; and
- ii. exhibits requiring contact (for example “please touch” exhibits or other interactive displays) must remain closed.

h. *Personal Services.*

- i. Hair salons, barbershops, and establishments that provide tanning, tattoo, waxing, threading, electrolysis, cryotherapy, facial and other skin services, massage, and nail technician services (“Personal Services Establishments”) may open, by appointment only, provided the following physical precautions are met and followed:
 - (1) all staff are required to wear gloves, and any other Personal Protective Equipment (“PPE”) as appropriate to their workplace and provided service;
 - (2) limit of 1 customer for every 200 sq. ft of service delivery space or 25% occupancy, whichever number is lower;
 - (3) limit of 1 customer in a waiting area at a time, other customers waiting for appointments must wait outside the Personal Services Establishments;
 - (4) follow the State’s [Best Practices for Personal Service Establishments](#) as amended from time to time.

- i. *Pools.* Must strictly comply with any guidance issued by DHHS.



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- j. *Retail Establishments.* May open provided:
- limit 1 person per 200 sq. ft of retail space;
 - any retail establishment that intends to have and can physically accommodate more than 150 persons must have a Letter of Approval to exceed 150 persons;
 - all requests for a Letter of Approval to exceed 150 persons must:
 - detail how the establishment will monitor the number of people in the building at any given time;
 - detail how the establishment will ensure maintained social distancing at points of congregation in the building such as the entrance, exit, in check-out lines; and between check-out lines; and
 - detail modified staffing strategies to reduce employee exposure;
 - employees use any additional Personal Protective Equipment as appropriate to their workplace.
- k. *Religious Facilities.* Churches, synagogues, mosques, temples, and other similar religious facilities of any faith (“Religious Facilities”) may open to the general public for indoor and outdoor services provided the Religious Facility complies with the following:
- Gathering size.
 - shall be determined by dividing the total square footage of the worship space by 50, however total number of persons shall not exceed 25% of permitted occupancy; and
 - occupancy numbers shall include faith leaders, volunteers, and congregants.
 - Spacing.
 - seating must be marked to reflect appropriate distancing;
 - facilities with fixed seating or pews, every other row must remain empty and marked off to prohibit seating;
 - individuals that are not a part of the same household must maintain 6 feet of social distance from the point of entry into the facility through their exit from the facility; and
 - only exceptions are where the core activity or safety require shorter distance (for example, pallbearers).
 - Other requirements.
 - Prior to the first service of each day in which they participate, faith leaders, volunteers and other staff must:
 - be screened (verbally, in writing, or online) using the following questions:
 - Are you suffering from any of the common symptoms of COVID-19 (coughing, difficulty breathing, loss of taste etc.)?



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- ii. Have you had close personal contact with anybody known to have a positive COVID-19 diagnosis over the past two weeks?
 - b. where allowed by religious tenant, have their temperature screened:
 - i. anyone with a temperature in excess of 100.4°F must be excluded from the religious facility until at least 72 hours after symptoms resolve.
 - c. exclude anyone that exhibits symptoms consistent with COVID-19 until at least 72 hours after their symptoms resolve; and
 - d. notify Montgomery County Disease Control at 240-777-1755 if they learn that a person who attended or participated in a religious ceremony is diagnosed with or develops symptoms consistent with COVID-19.
- (2) Use CDC and EPA approved disinfectants to clean restrooms and high contact surfaces between each religious service.
- iv. absent a Letter of Approval from DHHS, the number of outdoor service participants shall not exceed 25 participants.

1. *Sports.*

- i. All sports are categorized by level of risk as detailed in the [Maryland Sports Commission Return to Play Report](#) with the following exceptions:
 - (1) solo kayaking/canoeing is considered to be low risk;
 - (2) tandem kayaking/canoeing is considered to be low risk if participants are from the same household.
- ii. Only the play of low-risk and medium-risk sports is permitted.
- iii. The play of high-risk sports is prohibited, however no-contact skills-building and drills are permitted.
- iv. High-risk sport scrimmages, games, matches, and competitions are prohibited.
- v. All sports participants, regardless of age must comply with the face covering requirement in paragraph 2.b, and the social distancing and hygiene requirements of paragraph 3.a.
- vi. Rented sport equipment must be thoroughly cleaned and disinfected pursuant to CDC guidelines using EPA approved cleaners and disinfectants between usage.
- vii. All tournaments, championships, or events are strictly prohibited unless a Letter of Approval is issued by the County.
- viii. Sports played outside must follow outdoor gathering guidelines and the total number of people present is limited to 25. This includes staff, coaches, players, and any parents, guardians, or immediate family.



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- ix. Sports played inside must follow the indoor gathering guidelines and the total number of people present is limited to 10. This includes staff, coaches, players, and any parents, guardians, or immediate family.
- x. Play and games with teams from outside of Maryland, Virginia, or the District of Columbia is prohibited.
- xi. Sports may not open to the general public or spectators. Parents, guardians, and immediate family of players may spectate provided they maintain the appropriate social distancing of greater than 6 feet between non-family members and the total number of individuals present does not exceed the applicable gathering size limit.

m. *Youth Camp Programs.*

- i. Must follow all provisions in applicable directives and orders issued by the Secretary of the MDH that do not conflict with this Order.

7. Other Businesses, Organizations, Establishments and Facilities That May Be Open.

- a. *Car Wash.*
- b. *Escape Rooms.*
 - i. Only private games of a maximum of 6 people all permitted.
 - ii. All games are by appointment only and must be staggered so as to prevent patrons from interacting with others outside of their group.
 - iii. Before and after each game, all items in game rooms (including but not limited to lock, props, and any touchable surfaces) are thoroughly cleaned using CDC and EPA approved disinfectants.
 - iv. The lobby area is sanitized and cleaned every hour to prevent prolonged exposure and contact for other patrons.
 - v. All items given to the patrons (walkie-talkies, boogie boards) are sanitized after each game prior to the use from another group.
- c. *Farms.* For “pick-your-own” produce by members of the public.
- d. *Manufacturing.*
- e. *Miniature golf.*
- f. *Office space.*
- g. *Outdoor recreation.*
 - i. parks for personal fitness and fitness classes;
 - ii. golf courses and driving ranges;
 - iii. outdoor archery and shooting ranges;
 - iv. marinas and watercraft rental businesses;
 - v. campgrounds;
 - vi. horse boarding and riding facilities; and
 - vii. playgrounds.



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- (1) Playgrounds are excluded from the cleaning requirements of paragraph 3.a.v.
- h. *Ice skating rinks.*
- Indoor ice skating rinks remain closed to the public but may operate as a Fitness Center for the purpose of individual or group training pursuant to paragraph 6.1.
 - Outdoor ice skating rinks must follow the gathering size requirements, pursuant to paragraph 5 of this Order, and submit a request for a Letter of Approval, pursuant to paragraph 4, before reopening.
8. Other Businesses, Organizations, Establishments, and Facilities Required to Close.
- Amusement parks.* Including stand-alone types, such as, but not limited to merry-go-rounds and roller coasters.
 - Bingo halls.*
 - Go-kart tracks*
 - Recreation centers.*
 - Roller skating rinks.*
 - Senior Centers.*
 - Social Clubs.*
 - Theaters.*
 - This Order controls the occupancy and use of theatres in Montgomery County at which live performances occur or motion pictures are shown (“Theaters”).
 - All Theaters shall remain closed to the general public.
 - Trampoline Parks.*
 - Any other establishment not listed above that is subject to the admission and amusement tax under Title 4 of the Tax-General Article of the Maryland Code.
9. *Minimal Operations.* Staff and owners may continue to be on-site at any business, organization, establishment, or facility that is required to be closed pursuant to this Order only for the following purposes:
- Facilitating remote working (a/k/a/ telework) by other staff;
 - Maintaining essential property;
 - Preventing loss of, or damage to property, including without limitation, preventing spoilage of perishable inventory;
 - Performing essential administrative functions, including without limitation, picking up mail and processing payroll; and
 - Caring for live animals.
10. This Order shall be enforced by any County department or agency that has authority over the subject matter of any particular provision and the Montgomery County Police Department.



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11. I hereby adopt by reference the following portions of State Executive Order [21-01-28-01](#):

- a. paragraph III.k (“Determination of Maximum Occupancy”); and
- b. paragraph VII (“General Provisions”) and all its subparagraphs.

12. Pursuant to State Executive Order [21-01-28-01](#) paragraph VII.b, a person who knowingly and willfully violates this Order is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding one year or a fine not exceeding \$5,000 or both.

13. Enforcement of this Local Order shall be done in accordance with the provisions established in State Executive Order [21-01-28-01](#) and any other applicable local law.


14. This Local Order may be amended, upon consultation with the Local Health Officer and the approval of the Montgomery County Council.

15. If any provision of this Local Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of the Order shall remain in effect to the extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Local Order are severable.

16. This Local Order shall take effect February 9, 2021 at 5:00 p.m.

By: 
MARC ELRICH
County Executive

Approved as to form and legality:
Office of the County Attorney

By: 
Silvia C. Kirch, Division Chief

Date: 2/2/2021



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BACKGROUND

WHEREAS, a state of emergency and catastrophic health emergency was proclaimed by Lawrence J. Hogan, the Governor of the State of Maryland on March 5, 2020, and renewed on March 17, 2020, April 10, 2020, May 6, 2020, June 3, 2020, July 1, 2020, July 30, 2020, August 10, 2020, September 8, 2020, on October 6, 2020, October 29, 2020, [and on] November 25, 2020, December 23, 2020, and on January 21, 2021 to control and prevent the spread of COVID-19 within the state, and the state of emergency and catastrophic health emergency still exists;

WHEREAS, the effects of COVID-19 require that local officials be vigilant in advising all individuals in Montgomery County, Maryland of measures they can take to protect health, safety, and welfare;

WHEREAS, the currently known and available scientific evidence and best practices support continued limitations on large gatherings, increased use of face coverings, and continued social distancing to prevent exposures and transmissions, and reduce the threat to especially vulnerable populations, including older individuals and those with chronic health conditions;

WHEREAS, to reduce the threat to human health caused by transmission of COVID-19 and to protect and save lives, it is necessary and reasonable that individuals in the Montgomery County continue to engage in social distancing, use of face coverings, and refrain from congregating in large groups;

WHEREAS, it continues to be necessary to control and direct the occupancy and use of buildings and premises, as well as places of amusement and assembly within Montgomery County;

WHEREAS, on [November 17, 2020] January 28, 2021, Governor Hogan issued State Executive Order [20-11-17-01] 21-01-28-01, which renews the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order [20-11-17-01] 21-01-28-01 if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19; and

WHEREAS, Montgomery County has determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order [20-11-17-01] 21-01-28-01 in order to prevent the spread of COVID-19;

NOW, THEREFORE, BE IT ORDERED, PURSUANT TO THE AUTHORITY GRANTED IN GOVERNOR HOGAN'S EXECUTIVE ORDER [20-11-17-01] 21-01-28-01 AND IN AN EFFORT TO



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PROTECT THE PUBLIC HEALTH, WELFARE, AND SAFETY, AND CONTROL AND PREVENT THE SPREAD OF COVID-19 WITHIN MONTGOMERY COUNTY, I HEREBY ORDER:

1. Administrative and Implementing Provisions.

This County Executive Order Number 067-20 dated May 15, 2020, as amended and restated by Order No. 070-20 dated May 28, 2020, as amended and restated by Order No. 082-20, as amended and restated by Order No. 087-20, as amended and restated by Order No. 098-20, as amended and restated by Order No. 114-20, as amended and restated by Order No. 117-20, as amended and restated by Order No. 122-20AM, as amended and restated by Order 139-20AM2, and as further amended and restated in its entirety as set forth herein.

2. Face Coverings.

a. Definitions.

- i. "Face Covering" means a covering that fully covers a person's nose, mouth, and chin and is secured to the person's head. The term "Face Covering" includes, without limitation, cloth face coverings, scarves, and bandanas. The term excludes Medical-Grade Masks.
- ii. Use of the following does not satisfy the County's Face Covering mandate:
 - (1) wearing a face covering with a valve; or
 - (2) solely wearing a face shield.
- iii. "Medical-Grade Mask" means an N95, KN95, surgical, or other mask that would be appropriate for a health care setting.
- iv. "Public Transportation" means shared-ride surface transportation services that are open to the general public, including without limitation, taxi services, ride-sharing services, car services, and transit services operating within Montgomery County. Examples of Public Transportation include, but are not limited, to Ride-On bus service, WMATA bus and train service, MARC train service, and Mobility and Paratransit services.

b. Requirement.

- i. Except as provided in paragraph 2.c below, all persons in the County over the age of two (2) years old are required to wear a Face Covering when
 - (1) in or on any form of Public Transportation;
 - (2) indoors at any location where members of the public are generally permitted, including without limitation, Religious Facilities, Retail Establishments, Foodservice Establishments, Fitness Centers, Gaming Facilities, Indoor Recreation Establishments, and Personal Services Establishments;



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- (3) leaving their residences and likely to come into contact with another person, such as being within 6 feet of another person for more than a fleeting time;
- (4) obtaining healthcare services, including without limitation, in offices of physicians and dentists, hospitals, pharmacies, and laboratories; and
- (5) engaged in work in any area where:
 - a. interaction with others is likely, including without limitation, in shared areas of commercial offices; or
 - b. food is prepared or packaged;
- (6) at all times in a foodservice establishment unless actively engaged in eating or drinking.
- ii. Single-use Face Coverings shall be properly discarded in trash receptacles. It is recommended that all reusable Face Coverings be cleaned frequently (at least once per day).
- iii. Wearing a Medical-Grade Mask satisfies any requirement in paragraph 2.b to wear a Face Covering, but all persons in Montgomery County are urged to reserve Medical-Grade Masks for use by health care workers and first responders.
- c. Exceptions. Paragraph 2.b does not require persons to wear Face Coverings:
 - i. if, due to a bona fide disability or medical condition, it would be unsafe for the person to do so;
 - ii. to the extent wearing a Face Covering would impede communication by or with persons who have a hearing impairment or other disability, where the ability to see the mouth is essential for communication;
 - iii. if wearing a Face Covering would subject the person to an unsafe working condition, as determined by federal, state, or local occupational safety regulators or workplace safety guidelines;
 - iv. to the extent wearing a Face Covering would make it impossible to receive services requiring access to the face, mouth, or head, including without limitation, dental care, shaving, and facial treatments;
 - v. while actively engaged in eating or drinking;
 - vi. while swimming or engaging in other physical activities where the use of a Face Covering is likely to pose a bona fide safety risk;
 - vii. for individuals under the age of eighteen (18) when actively engaged in certain sports – as recommended by the [American Academy of Pediatrics](#); or
 - viii. while operating any Public Transportation conveyance, provided that the person is (1) the sole operator of the conveyance, and (2) located in a separate compartment that is off-limits to riders.



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3. General Operating Requirements.

- a. Unless explicitly stated in another provision of this order, all businesses, organizations, establishments, and facilities that are permitted to operate under this Order shall, as a condition of their continued operation:
 - i. require employees and customers to maintain social distancing of greater than 6 feet, whenever possible, as recommended by the Centers for Disease Control and Prevention (“CDC”) and the Maryland Department of Health (“MDH”);
 - ii. utilize markings and signage to guide employees and customers;
 - iii. comply with the Face Covering requirements in paragraph 2.b;
 - iv. provide employees with guidance and training to reflect updated CDC guidelines for their workplace;
 - v. use CDC and Environmental Protection Agency (“EPA”) approved disinfectants to clean spaces daily; including use of disinfectants to wipe down high contact surfaces at least once every 2 hours while staff or customers are present (“high contact surfaces” are surfaces that will have human contact at least once an hour);
 - vi. require employees to wash their hands hourly; and
 - vii. follow review and implement new CDC, MDH, and Montgomery County Department of Health & Human Services (“DHHS”) guidelines as they are issued.
- b. All businesses, organizations, establishments, and facilities in Montgomery County shall comply with any directive or orders issued by the Local Health Officer, pursuant to State Executive Orders [20-04-05-02](#) (“Delegating Authority to Local Officials to Control and Close Unsafe Facilities”) and [21-01-28-01](#) [20-11-17-01] (“[Amending and Restating the Order Allowing Reopening of Certain Businesses and Facilities Subject to Local Regulations and Generally Requiring Use of Face Coverings] Amending and Restating the Order of November 17, 2020, Regulating Certain Businesses and Facilities and Generally Requiring Use of Face Coverings”), as may be amended from time to time.
- c. All businesses, organizations, establishments, and facilities that are permitted to open shall post signage indicating that they are in compliance with all provisions of paragraph 3.a of this Order.
- d. Unless explicitly stated to the contrary, the General Operating requirements apply to all provisions in this order.



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4. Letters of Approval.

- a. Requests for a Letter of Approval must be submitted a minimum of 5 business days before the scheduled event. Failure to submit a timely request will result in an automatic denial of the Letter of Approval.
- b. Failure to obtain a Letter of Approval prior to proceeding with an event will be considered to be a violation of this Order and could subject the requestor, organizer, and venue to the appropriate fines and sanctions pursuant to paragraph 12 of this Order.
- c. Any person, organizer, or venue who is found to have held an event without a Letter of Approval will be automatically disqualified from receiving a future Letter of Approval.

5. Gatherings.

- a. Unless explicitly stated in another paragraph of this Order:
 - i. Outdoor gatherings of more than 25 people continue to be prohibited at all locations and venues, including but not limited to parties, receptions, parades, festivals, conventions, and fundraisers.
 - ii. Indoor gatherings of more than 10 people are prohibited.
 - iii. Planned large gatherings and events must be canceled or postponed until after termination of the state of emergency and the proclamation of the catastrophic health emergency has been rescinded.
 - iv. Social, community, recreational, and leisure gatherings must follow the following physical precautions:
 - (1) for indoor gatherings 1 person or household per 200 sq. ft or a maximum of 10 people, whichever number is lower;
 - (2) for outdoor gatherings 1 person or household per 200 sq. ft or a maximum of 25 people, whichever number is lower; and
 - (3) the size of the location and venue must accommodate applicable social distancing for the number of attendees.
 - v. Social gatherings, for the purposes of this Executive Order [139-20], shall also include all non-professional sports gatherings and events.
 - vi. A social gathering is a gathering of persons from more than one household. If more than one household is present at a gathering each individual present at the gathering must be counted for purposes of determining compliance.

6. Businesses, Organizations, Establishments and Facilities That May Be Open.

- a. *Bowling alleys.* May open provided:



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- i. number of persons is limited to 25% occupancy or a maximum of 25 people, whichever number is lower;
 - ii. all equipment (balls, shoes, etc.) and spaces (lanes, tables, seats) must be cleaned between each person(s) or group's use with CDC and EPA approved cleaners; and
 - iii. any foodservice establishment located within the bowling alley must conform to all of the standards as established in paragraph 6.e. of this Order.
- b. *Childcare*. Must continue to follow the phase two childcare capacity limits and child-adult ratios that are currently in effect for all childcare providers in Montgomery County as stated in the Maryland Department of Education's [June 10, 2020 Child Care Operating Procedures](#) and [November 19, 2020 waiver letter](#).
- c. *Cigar Bars/Hookah Bars/Vape Shops*. May open solely to sell retail goods. Smoking on site is strictly prohibited.
- d. *Fitness Centers*. May open provided:
 - i. limit 1 person per 200 sq. ft. of indoor space or 25% occupancy, whichever number is lower;
 - ii. strictly enforce social distancing and the requirement that individuals wear masks while exercising; and
 - iii. follow the State's [Best Practices for Fitness Centers, Martial Arts, Dance Studios](#) as amended from time to time.
 - iv. Fitness Centers include, but are not limited to dance studios, health clubs, health spas, gyms, training facilities, and other indoor physical activities.
 - v. Fitness Centers that provide sport-specific training for high-risk sports as defined in [Maryland Sports Commission Return to Play Report](#) must follow the restrictions in paragraph 6.1 below.
- e. *Foodservice Establishments*.
 - i. Restaurants, bars, and other similar establishments that sell food or beverages for consumption on-premises in Montgomery County [(“Restaurants and Bars”),] and social and fraternal clubs [(“Social Clubs”)] with dining facilities[, and foodservices in healthcare facilities] (collectively “Foodservice Establishments”) may, to the extent permitted by applicable law:
 - (1) [must suspend service of food and beverage to customers for consumption indoors] serve food and beverages to customers for consumption in indoor seating areas up to a maximum of 25% of the establishment's maximum occupancy;



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- (2) [may only] serve food and beverages to customers for consumption in outdoor seating areas pursuant to paragraph 6.e.iii [between the hours of 6 a.m. and 10 p.m.];
- (3) sell food and beverages that are promptly taken from the premises, i.e., on a carry-out or drive-through basis; and [/or]
- (4) deliver food and beverages to customers off the premises.
- ii. [Foodservices in licensed healthcare facilities may continue to operate indoor dining provided they follow all other social distancing and cleaning requirements.]
Foodservice Establishments must:
 - (1) require all staff to wear Face Coverings pursuant to paragraph 2 of this Order;
 - (2) require all customers to wear Face Coverings unless actively engaged in the act of eating or drinking (e.g. while seated at the table and talking but not eating or drinking);
 - (3) ensure that all alcoholic beverages are off all tables and collected from customers by 10 p.m.;
 - (4) suspend the sale or provision of alcoholic beverages for on-site consumption after 10 p.m.;
 - (5) maintain a daily record of the following information for at least 30 days, to assist with contact tracing:
 - a. date;
 - b. time; and
 - c. name and contact information for at least one person of each dining party;
 - (6) limit customers in indoor dining to a one-hour dining period;
 - a. “dining period” is defined as the period of time from when the customer is seated until the time the customer exits the establishment after consumption of their food and/or beverage.
 - (7) follow all provisions of the MDH’s Amended Directive and Order Regarding Food Service Establishments ([Order No. MDH 2020-11-17-03](#)), as may be amended from time to time, that do not conflict with any provision of this Order; and
 - (8) post signage at each outdoor dining entrance advising customers and visitors that:
 - a. they must comply with the Face Covering requirements at all times when they are not actively eating or drinking;
 - b. they must maintain social distancing of at least 6 feet when waiting to be seated; and



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- c. failure to wear Face Coverings or maintain social distancing may result in their being refused service and found to be in violation of the COVID-19 Local Order and subject to criminal penalties as stated in the Order.
- iii. Foodservice Establishments that erect a temporary outdoor structure, such as a tent, for the purpose of outdoor dining:
 - (1) must follow all guidelines issued by DHHS and DPS and obtain any necessary permits from the Department of Permitting Services for the temporary structure;
 - (2) temporary outdoor structures that are in the shape of a rectangle, must at all times maintain at least one side of the structure entirely open;
 - (3) temporary outdoor structures that are not in the shape of a rectangle (e.g. yurts or dining bubbles) must apply for and obtain a Letter of Approval before being used by the food service establishment;
 - (4) total capacity for a temporary outdoor structure may not exceed 1 table per every 50 sq. ft, but there must be a minimum of 6 ft between persons seated at different tables.
- [iv. Foodservice establishments must follow all provisions of the MDH's [Amended Directive and Order Regarding Food Service Establishments](#) (Order No. MDH 2020-11-17-03) that do not conflict with any provision of this Order;
- v. Foodservice establishments shall not be open to the public between the hours of 10:00 p.m. and 6:00 a.m.; provided, however, that during such hours Foodservice Establishments may continue to:
 - (1) sell food and beverages that are promptly taken from the premises (i.e., on a carry-out or drive-through basis), and
 - (2) deliver food and beverages to customers off the premises;
- vi. must maintain a daily record of the following information for at least 30 days, to assist with contact tracing:
 - (1) date;
 - (2) time; and
 - (3) name and contact information for at least one person of each outdoor dining party;
- vii. must post signage at each outdoor dining entrance advising customers and visitors that:
 - (1) they must comply with the face covering requirements at all times when they are not actively eating or drinking;
 - (2) they must maintain social distancing of at least 6 feet when waiting to be seated; and



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(3) failure to wear face coverings or maintain social distancing may result in their being refused service and found to be in violation of the COVID-19 Local Order and subject to criminal penalties as stated in the Order.]

f. *Malls.*

- i. Shopping centers with one or more enclosed pedestrian concourses may maintain pedestrian concourses and other interior common areas open, but solely to the extent necessary for the general public to enter and exit retail establishments.
- ii. Food courts located inside indoor malls shall be limited to carry-out services only; dining at tables or other spaces in food courts is prohibited.
- iii. Congregating in any indoor area outside of retail stores (including food courts) is prohibited.
- iv. Malls shall remove tables, chairs, benches, or any other items which could encourage congregating from food courts and other indoor areas outside of retail stores.

g. *Museums and Art Galleries.* May open provided:

- i. limit 1 person per 200 sq. ft of exhibit-space or in-store space or 25% occupancy, whichever number is lower; and
- ii. exhibits requiring contact (for example “please touch” exhibits or other interactive displays) must remain closed.

h. *Personal Services.*

- i. Hair salons, barbershops, and establishments that provide tanning, tattoo, waxing, threading, electrolysis, cryotherapy, facial and other skin services, massage, and nail technician services (“Personal Services Establishments”) may open, by appointment only, provided the following physical precautions are met and followed:
 - (1) all staff are required to wear gloves, and any other Personal Protective Equipment (“PPE”) as appropriate to their workplace and provided service;
 - (2) limit of 1 customer for every 200 sq. ft of service delivery space or 25% occupancy, whichever number is lower;
 - (3) limit of 1 customer in a waiting area at a time, other customers waiting for appointments must wait outside the Personal Services Establishments;
 - (4) follow the State’s [Best Practices for Personal Service Establishments](#) as amended from time to time.

i. *Pools.* Must strictly comply with any guidance issued by DHHS.



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- j. *Retail Establishments.* May open provided:
- limit 1 person per 200 sq. ft of retail space;
 - any retail establishment that intends to have and[, per paragraph 6.j.i.] can physically accommodate more than 150 persons must [, effective 5:00 p.m. on December 23, 2020,] have a Letter of Approval to exceed 150 persons;
 - all requests for a Letter of Approval to exceed 150 persons must:
 - detail how the establishment will monitor the number of people in the building at any given time;
 - detail how the establishment will ensure maintained social distancing at points of congregation in the building such as the entrance, exit, in check-out lines; and between check-out lines; and
 - detail modified staffing strategies to reduce employee exposure; [and
 - be submitted by 5:00 p.m. December 21, 2020; and];
 - employees use any additional Personal Protective Equipment as appropriate to their workplace.
- k. *Religious Facilities.* Churches, synagogues, mosques, temples, and other similar religious facilities of any faith (“Religious Facilities”) may open to the general public for indoor and outdoor services provided the Religious Facility complies with the following:
- Gathering size.
 - shall be determined by dividing the total square footage of the worship space by 50, however total number of persons shall not exceed 25% of permitted occupancy; and
 - occupancy numbers shall include faith leaders, volunteers, and congregants.
 - Spacing.
 - seating must be marked to reflect appropriate distancing;
 - facilities with fixed seating or pews, every other row must remain empty and marked off to prohibit seating;
 - individuals that are not a part of the same household must maintain 6 feet of social distance from the point of entry into the facility through their exit from the facility; and
 - only exceptions are where the core activity or safety require shorter distance (for example, pallbearers).
 - Other requirements.
 - Prior to the first service of each day in which they participate, faith leaders, volunteers and other staff must:
 - be screened (verbally, in writing, or online) using the following questions:



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- i. Are you suffering from any of the common symptoms of COVID-19 (coughing, difficulty breathing, loss of taste etc.)?
 - ii. Have you had close personal contact with anybody known to have a positive COVID-19 diagnosis over the past two weeks?
 - b. where allowed by religious tenant, have their temperature screened:
 - i. anyone with a temperature in excess of 100.4°F must be excluded from the religious facility until at least 72 hours after symptoms resolve.
 - c. exclude anyone that exhibits symptoms consistent with COVID-19 until at least 72 hours after their symptoms resolve; and
 - d. notify Montgomery County Disease Control at 240-777-1755 if they learn that a person who attended or participated in a religious ceremony is diagnosed with or develops symptoms consistent with COVID-19.
 - (2) Use CDC and EPA approved disinfectants to clean restrooms and high contact surfaces between each religious service.
 - iv. absent a Letter of Approval from DHHS, the number of outdoor service participants shall not exceed 25 participants.
1. *Sports.*
- i. All sports are categorized by level of risk as detailed in the [Maryland Sports Commission Return to Play Report](#) with the following exceptions:
 - (1) solo kayaking/canoeing is considered to be low risk;
 - (2) tandem kayaking/canoeing is considered to be low risk if participants are from the same household.
 - ii. Only the play of low-risk and medium-risk sports is permitted.
 - iii. The play of high-risk sports is prohibited, however no-contact skills-building and drills are permitted.
 - iv. High-risk sport scrimmages, games, matches, and competitions are prohibited.
 - v. All sports participants, regardless of age must comply with the face covering requirement in paragraph 2.b, and the social distancing and hygiene requirements of paragraph 3.a.
 - vi. Rented sport equipment must be thoroughly cleaned and disinfected pursuant to CDC guidelines using EPA approved cleaners and disinfectants between usage.
 - vii. All tournaments, championships, or events are strictly prohibited unless a Letter of Approval is issued by the County.



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- viii. Sports played outside must follow outdoor gathering guidelines and the total number of people present is limited to 25. This includes staff, coaches, players, and any parents, guardians, or immediate family.
- ix. Sports played inside must follow the indoor gathering guidelines and the total number of people present is limited to 10. This includes staff, coaches, players, and any parents, guardians, or immediate family.
- x. Play and games with teams from outside of Maryland, Virginia, or the District of Columbia is prohibited.
- xi. Sports may not open to the general public or spectators. Parents, guardians, and immediate family of players may spectate provided they maintain the appropriate social distancing of greater than 6 feet between non-family members and the total number of individuals present does not exceed the applicable gathering size limit.

m. *Youth Camp Programs.*

- i. Must follow all provisions in applicable directives and orders issued by the Secretary of the MDH that do not conflict with this Order.

7. Other Businesses, Organizations, Establishments and Facilities That May Be Open.

- a. *Car Wash.*
- b. *Escape Rooms.*
 - i. Only private games of a maximum of 6 people all permitted.
 - ii. All games are by appointment only and must be staggered so as to prevent patrons from interacting with others outside of their group.
 - iii. Before and after each game, all items in game rooms (including but not limited to lock, props, and any touchable surfaces) are thoroughly cleaned using CDC and EPA approved disinfectants.
 - iv. The lobby area is sanitized and cleaned every hour to prevent prolonged exposure and contact for other patrons.
 - v. All items given to the patrons (walkie-talkies, boogie boards) are sanitized after each game prior to the use from another group.
- c. *Farms.* For “pick-your-own” produce by members of the public.
- d. *Manufacturing.*
- e. *Miniature golf.*
- f. *Office space.*
- g. *Outdoor recreation.*
 - i. parks for personal fitness and fitness classes;
 - ii. golf courses and driving ranges;
 - iii. outdoor archery and shooting ranges;
 - iv. marinas and watercraft rental businesses;



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- v. campgrounds;
- vi. horse boarding and riding facilities; and
- vii. playgrounds.

(1) Playgrounds are excluded from the cleaning requirements of paragraph 3.a.v.

h. *Ice skating rinks.*

- i. Indoor ice skating rinks remain closed to the public but may operate as a Fitness Center for the purpose of individual or group training pursuant to paragraph 6.1.
- ii. Outdoor ice skating rinks must follow the gathering size requirements, pursuant to paragraph 5 of this Order, and submit a request for a Letter of Approval, pursuant to paragraph 4, before reopening.

8. Other Businesses, Organizations, Establishments, and Facilities Required to Close.

- a. *Amusement parks.* Including stand-alone types, such as, but not limited to merry-go-rounds and roller coasters.
- b. *Bingo halls.*
- c. *Go-kart tracks*
- d. *Recreation centers.*
- e. *Roller skating rinks.*
- f. *Senior Centers.*
- g. *Social Clubs.*
- h. *Theaters.*
 - i. This Order controls the occupancy and use of theatres in Montgomery County at which live performances occur or motion pictures are shown ("Theaters").
 - ii. All Theaters shall remain closed to the general public.
- i. *Trampoline Parks.*
- j. Any other establishment not listed above that is subject to the admission and amusement tax under Title 4 of the Tax-General Article of the Maryland Code.

9. *Minimal Operations.* Staff and owners may continue to be on-site at any business, organization, establishment, or facility that is required to be closed pursuant to this Order only for the following purposes:

- a. Facilitating remote working (a/k/a/ telework) by other staff;
- b. Maintaining essential property;
- c. Preventing loss of, or damage to property, including without limitation, preventing spoilage of perishable inventory;
- d. Performing essential administrative functions, including without limitation, picking up mail and processing payroll; and
- e. Caring for live animals.



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10. This Order shall be enforced by any County department or agency that has authority over the subject matter of any particular provision and the Montgomery County Police Department.
11. I hereby adopt by reference the following portions of State Executive Order [\[20-11-17-01\]](#) [21-01-28-01](#):
 - a. paragraph III.k (“Determination of Maximum Occupancy”); and
 - b. paragraph VII (“General Provisions”) and all its subparagraphs.
12. Pursuant to State Executive Order [\[20-11-17-01\]](#) [21-01-28-01](#) paragraph VII.b, a person who knowingly and willfully violates this Order is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding one year or a fine not exceeding \$5,000 or both.
13. Enforcement of this Local Order shall be done in accordance with the provisions established in State Executive Order [\[20-11-17-01\]](#) [21-01-28-01](#) and any other applicable local law.
14. This Local Order may be amended, upon consultation with the Local Health Officer and the approval of the Montgomery County Council.
15. If any provision of this Local Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of the Order shall remain in effect to the extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Local Order are severable.
16. This Local Order shall take effect [\[December 15, 2020\]](#) [February 9, 2021](#) at 5:00 p.m.

By: 
MARC ELRICH
County Executive

Approved as to form and legality:
Office of the County Attorney

By: 
Silvia C. Kinch, Division Chief

Date: 2/2/2021



Montgomery
County Council

Committee:

Committee Review: N/A

Staff: Robert H. Drummer, Senior Legislative Attorney

Purpose: To receive testimony/final action - vote expected

Keywords: #COVID19PublicHealthOrder

AGENDA ITEMS 2A & 2.1

February 9, 2021

Public Hearing/Action

ADDENDUM

SUBJECT

Resolution to approve Executive Order No. 19-21AM, COVID-19 Local Order – Amending and Restating Order dated December 15, 2020

Resolution to adopt a Board of Health Regulation concerning Executive Order No. 19-21AM, COVID-19 Local Order – Amending and Restating Order dated December 15, 2020

Lead Sponsor: County Council

EXPECTED ATTENDEES

Dr. Travis Gayles, County Health Officer

Dr. Earl Stoddard, Director of Emergency Management & Homeland Security

Silvia Kinch, County Attorney's Office

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Whether to modify the restrictions to limit the spread of COVID-19 due to the numbers of infections in the County.
- Executive Order No. 19-21AM would permit limited indoor dining and clarify some existing provisions.

DESCRIPTION/ISSUE

On February 4, the Council introduced a resolution to approve Executive Order No. 19-21, COVID19 Local Order – Amending and Restating Order dated December 15, 2020. On February 4, the Council, sitting as the Board of Health, also introduced a resolution to approve Montgomery County Executive Order No. 19-21, COVID-19 Local Order – Amending and Restating Order dated December 15, 2020, as a Board of Health Regulation. The Council is scheduled to hold a public hearing and act on both resolutions after the hearing.

The Executive submitted an amended Executive Order 19-21AM to the Council on Monday, February 08, 2021 making changes to the limits of indoor dining and changing the effective date.

SUMMARY OF KEY DISCUSSION POINTS

- Should the Council permit the reopening of indoor dining in a limited capacity in light of the reduction in the spread of COVID-19 throughout the County since indoor dining was prohibited and vaccines began to roll out?
- Executive Order 19-21AM would permit indoor dining at 25% capacity and limit the indoor dining period for each customer to 90 minutes.
- Executive Order 19-21AM, if approved by the Council, would take effect on Sunday, February 14 at 7 am.

This report contains:

Staff Report for Introduction	Page 1
Proposed Resolution Approving Executive Order 19-21AM	©1
Proposed Resolution Adopting the Board of Health Regulation	©5
Executive Order No. 19-21AM, COVID-19 Local Order –	
Amending and Restating Order dated December 15, 2020	©10
Executive Order No. 19-21AM, showing changes	©23

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MEMORANDUM

February 3, 2021

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: Resolution to approve Executive Order No. 19-21, COVID-19 Local Order – Amending and Restating Order dated December 15, 2020 and a resolution to adopt a Board of Health Regulation concerning Executive Order No. 19-21, COVID-19 Local Order – Amending and Restating Order dated December 15, 2020.

PURPOSE: Introduction – No Council vote required

On Thursday, February 4, the Council is scheduled to introduce a Resolution to approve Executive Order No. 19-21, COVID-19 Local Order – Amending and Restating Order dated December 15, 2020 sitting as the County Council. The Council is also scheduled to introduce, sitting as the Board of Health, a Resolution to adopt the Executive Order as a Board of Health Regulation.¹ The Board of Health Regulation is sponsored by the County Council. A public hearing is tentatively scheduled for February 9; Council action is tentatively scheduled to follow the public hearing.

Background

The Council has adopted several Resolutions approving Executive Orders related to the COVID health emergency:

- On May 15, 2020, the Council adopted Resolution No. 19-456 approving Executive Order No. 067-20, COVID-19 Local Order. EO 067-20 continued the stay at home order of the Governor for the County until certain criteria in slowing the spread of the COVID-19 virus are met.
- The County's Local Health Officer, Dr. Travis Gayles, determined that certain criteria were met that would permit a Phase 1 reopening. County Executive Elrich signed EO 070-20, COVID-19 Local Order – Phase 1 permitting certain businesses and activities to operate again in the County as of June 1, 2020. On May 29, 2020, the Council adopted Resolution No. 19-485 approving Executive Order 070-20. On the same day, the Council, sitting as the Board of Health, also adopted Resolution No. 19-484 adopting the Executive Order as a Board of Health Regulation.

¹#COVID19PublicHealthOrder

- The Executive, after consulting with Dr. Gayles, determined that enough progress was made to begin Phase 2 on Friday, June 19. Executive Order 082-20, COVID-19 Local Order – Phase 2 lifted part of the stay at home order and moved the County into Phase 2. On June 16, 2020, the Council adopted Resolution No. 19-496 approving Executive Order 082-20. On the same day, the Council, sitting as the Board of Health, also adopted Resolution No. 19-497 adopting the Executive Order as a Board of Health Regulation.
- On August 4, 2020, the Council adopted Resolution No. 19-579 approving Executive Order 087-20, COVID-19 Local Order – Amending and Restating Order dated June 19, 2020. The Council, sitting as the Board of Health also adopted Resolution No. 19-578 adopting the Executive Order as a Board of Health Regulation on August 4.
- On August 24, 2020, the Council adopted Resolution No. 19-583 approving Executive Order 098-20, COVID-19 – Local Order Amending and Restating Order dated August 5, 2020. The Council, sitting as the Board of Health, also adopted Resolution No. 19-584 approving the Executive Order as a Board of Health Regulation.
- On September 22, 2020, the Council adopted Resolution No. 19-598 approving Executive Order 114-20, COVID-19 – Local Order Amending and Restating Order dated August 24, 2020. The Council, sitting as the Board of Health, also adopted Resolution No. 19-599 approving the Executive Order as a Board of Health Regulation.
- On October 1, 2020, the Council adopted Resolution No. 19-617 approving Executive Order 117-20, COVID-19 – Local Order Amending and Restating Order dated September 22, 2020. The Council, sitting as the Board of Health, also adopted Resolution No. 19-618 approving the Executive Order as a Board of Health Regulation.
- On November 10, 2020, the Council adopted Resolution No. 19-641 approving Executive Order 122-20 AM, COVID-19 – Local Order Amending and Restating Order dated September 29, 2020. The Council, sitting as the Board of Health, also adopted Resolution No. 19-642 approving the Executive Order as a Board of Health Regulation.
- On December 11, 2020, the Executive issued Executive Order No. 139-20AM, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020, which clarified the restrictions on childcare providers and updated the link to the American Academy of Pediatrics guidance on face coverings.
- On December 14, 2020, the Executive issued Executive Order No. 139-20AM2, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020. The amended Executive Order 139-20AM2, in addition to the changes made by Executive Order 139-20 and Executive Order 39-20AM, adds language permitting a large retail establishment to exceed the 150 person limit if the retail establishment is large enough to limit capacity to 1 person per 200 sq. ft. of retail space and has received written approval from the County.
- On December 15, 2020, the Council approved Resolution No. 19-698 approving Executive Order No. 139-20AM2 and Resolution No. 19-699 adopting Executive Order No. 139-20AM2 as a Board of Health Regulation.

On February 2, 2021, the Executive issued Executive Order No. 19-21, COVID-19 – Local Order Amending and Restating Order dated December 15, 2020, which permitted indoor dining in food service establishments on a limited basis and made several other clarifying changes.

Executive Order 19-21

Executive Order 19-21 is based on the Governor's Executive Order 21-01-28-01, issued on January 28, 2021, renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order Number 21-01-28-01, if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19. If approved by the Council, Executive Order 19-21 would:

Reopen indoor dining at 25% capacity, suspend alcohol sales at 10 p.m. and limit indoor dining to a one-hour dining period. Additional changes include:

- general housekeeping (updating references and links to State of Emergency/CHE renewals and current State Executive Order);
- updated the link to the American Academy of Pediatrics Face Covering exceptions (paragraph 2.vii.) (added the word "certain" to show that AAP now recommends that children refrain from wearing face coverings only while engaging in *certain* sports);
- removed deadline references for letter of approval requests for retail to exceed 150 persons (paragraph 6.j.); and
- reorganized the Foodservice Establishment section (6.e.) to, hopefully, make it easier to read.

Proposed effective date would be February 9 at 5 pm.

A copy of the signed Executive Order 19-21 is at ©10-22. A copy of the Executive Order showing changes from the last Order is at ©23-36.

Board of Health Regulation

The Board of Health Regulation would approve and adopt the terms of Executive Order No. 19-21, COVID-19 Local Order – Amending and Restating Order dated December 15, 2020, which was signed by County Executive Elrich on February 2, 2021, as a Board of Health Regulation applicable throughout the County, effective February 9, 2021 at 5 pm.

This packet contains:

	<u>Circle #</u>
Proposed Resolution Approving Executive Order 19-21	1
Proposed Resolution Adopting the Board of Health Regulation	5
Executive Order No. 19-21, COVID-19 Local Order –	
Amending and Restating Order dated December 15, 2020	10
Executive Order No. 19-21 showing changes	23

Resolution No.:	
Introduced:	February 4, 2021
Adopted:	

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY MARYLAND**

Lead Sponsor: County Council

SUBJECT: Approval of Executive Order No. ~~[[19-21]]~~ 19-21AM, COVID-19 Local Order – Amending and Restating Order dated December 15, 2020

Background

1. Governor Lawrence J. Hogan proclaimed a state of emergency and catastrophic health emergency on March 5, 2020, and renewed it on March 17, 2020, April 10, 2020, May 6, 2020, June 3, 2020, July 1, 2020, July 30, 2020, August 10, 2020, September 8, 2020, October 6, 2020, October 29, 2020, and November 25, 2020, December 23, 2020, and January 21, 2021 to control and prevent the spread of the Novel Coronavirus (“SARS-CoV-2”) and the disease that it causes - Coronavirus Disease 2019 (“COVID-19”).
2. Local officials must be vigilant in advising all individuals in the County of measures they must take to protect health, safety, and welfare of all.
3. The currently known and available scientific evidence and best practices support continued limitations on large gatherings, increased use of face coverings, and continued social distancing to prevent exposures and transmissions, and reduce the threat to especially vulnerable members of the population.
4. The Centers for Disease Control (CDC) advises that social distancing is the most effective way of slowing the spread of COVID-19. The serious health risk to County residents continues despite efforts to require social distancing.
5. On May 13, 2020 Governor Hogan issued State Executive Order 20-05-13-01 that continued to restrict gatherings of more than ten people for social, community, recreational, leisure, and sporting activities and events, requires the continued closure of certain non-essential businesses, and allows for the limited re-opening of certain businesses and activities under certain conditions. The Governor authorized Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by the State Executive Order if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19.
6. On May 15, 2020, the Executive issued Montgomery County Executive Order 067-20, COVID-19 Local Order, which was more restrictive than State Executive

Order 20-05-13-01 and included criteria for safely lifting the stay at home order and beginning to reopen businesses.

7. On May 27, 2020 the Governor issued State Executive Order 20-05-27-01 further expanding reopening of certain businesses and facilities, subject to local regulations.
8. On May 28, Montgomery County had demonstrated significant progress and trends towards meeting much of the criteria listed in County Executive Order 067-20.
9. On May 28, 2020, County Executive Elrich issued Executive Order No. 070-20, COVID-19 Local Order – Phase 1, reducing some of the stay at home restrictions in the County beginning on June 1, 2020.
10. On June 10, 2020, Governor Hogan issued Executive Order 20-06-10-01 lifting more restrictions in the State but again gave Maryland Counties the authority to continue to impose limitations on business and personal activities that were more restrictive than those permitted under the Governor’s Executive Order.
11. On June 15, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations that are more restrictive than the Governor’s Order to prevent the spread of COVID-19 but that some restrictions could be lifted. The Executive issued an Executive Order on June 15 and amended it on June 16. EO 082-20, COVID-19 Local Order – Phase 2, moved the County into Phase 2 by lifting the stay at home order and certain other restrictions on businesses and activities.
12. On August 3, 2020, Governor Hogan issued Executive Order 20-08-03-01 renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order Number 20-08-03-01, if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19.
13. On August 3, 2020, County Executive Elrich, after consulting with the County Health Officer, determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-08-03-01 in order to prevent the spread of COVID-19 and issued Executive Order No. 087-20, COVID-19 Local Order – Amending and Restating Order dated June 19, 2020. The Council approved Executive Order No. 087-20 on August 4, 2020 in Resolution No. 19-579. The Council approved Executive Order No. 098-20 on August 24, 2020 in Resolution No. 19-583.
14. On September 18, 2020, Governor Hogan issued State Executive Order 20-09-18-01 renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order 20-09-18-01, if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19.

15. On September 21, 2020, the Executive issued Executive Order No. 114-20, COVID-19 Local Order – Amending and Restating Order dated August 24, 2020, which imposed limitations on business and personal activities that are more restrictive than those permitted under State Executive Orders, but lessens the restrictions on certain businesses and activities. The Council adopted Resolution No. 19-598 approving Executive Order 114-20 on September 22, 2020.
16. On September 26, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-09-18-01 in order to prevent the spread of COVID-19.
17. On September 26, 2020, the Executive issued Executive Order 117-20, COVID-19 – Local Order Amending and Restating Order dated September 22, 2020. Executive Order 117-20 allows certain food service establishments to apply for a Late-Night Alcohol Sales Program permit. The Council adopted Resolution No. 19-617 approving Executive Order 117-20 on October 1, 2020.
18. On November 3, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-10-16-02 in order to prevent the spread of COVID-19.
19. On November 3, 2020, the Executive issued Executive Order No. 122-20, COVID-19 – Local Order Amending and Restating Order dated September 29, 2020 which amends the limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-10-16-02 in order to prevent the spread of COVID-19.
20. The Council held a public hearing and worksession on Executive Order 122-20 on November 5. Based on the November 5 Council meeting, the Executive submitted Executive Order 122-20 AM on November 6, 2020.
21. On November 10, 2020, the Council adopted Resolution No. 19-641 approving Executive Order 122-20 AM, COVID-19 – Local Order Amending and Restating Order dated September 29, 2020. The Council, sitting as the Board of Health, also adopted Resolution No. 19-642 approving the Executive Order as a Board of Health Regulation.²³.
22. On November 17, 2020, Governor Hogan issued Executive Order 20-11-17-01 renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order Number 20-11-17-01, if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID- 19.
23. On December 9, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-11-17-01 in order to prevent the spread of COVID-19.

24. On December 9, 2020, the Executive issued Executive Order No. 139-20, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020, which expands the limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-11-17-01 in order to prevent the spread of COVID-19.
25. On December 11, 2020, the Executive issued Executive Order No. 139-20AM, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020, which clarified the restrictions on childcare providers and updated the link to the American Academy of Pediatrics guidance on face coverings.
26. On December 14, 2020, the Executive issued Executive Order No. 139-20AM2, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020. The amended Executive Order 139-20AM2, in addition to the changes made by Executive Order 139-20 and Executive Order 139-20AM, adds language permitting a large retail establishment to exceed the 150 person limit if the retail establishment is large enough to limit capacity to 1 person per 200 sq. ft. of retail space and has received written approval from the County.
27. On December 15, 2020, the Council approved Resolution No. 19-698 approving Executive Order No. 139-20AM2 and Resolution No. 19-699 adopting Executive Order No. 139-20AM2 as a Board of Health Regulation.
28. On February 2, 2021, the Executive issued Executive Order No. 19-21, COVID-19 – Local Order Amending and Restating Order dated December 15, 2020, which permitted indoor dining in food service establishments on a limited basis and made several other clarifying changes.
29. On February 8, 2021, the Executive issued and amended Order, Executive Order No. 19-21AM, COVID-19 Local Order Amending and Restating Order dated December 15, 2020. EO 19-21AM would limit indoor dining customers to a 90-minute dining period and would take effect on February 14, 2021 at 7:00 a.m.
30. The Council held a public hearing and worksession on Executive Order [[19-21]] 19-21AM on February 9.

Action

The County Council for Montgomery County Maryland approves the following resolution:

The Council declares that acting on this Resolution is an emergency and approves Executive Order No. [[19-21]] 19-21AM, COVID-19 Local Order – Amending and Restating Order dated December 15, 2020. This Local Order takes effect on [[February 9, 2021 at 5:00 p.m.]] February 14, 2021 at 7:00 a.m.

Resolution No.: _____
Introduced: February 4, 2021
Adopted: _____

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

Lead Sponsor: County Council

Subject: Board of Health Regulation adopting Executive Order No. [[19-21]] 19-21AM, COVID-19 Local Order – Amending and Restating Order dated December 15, 2020.

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. Governor Lawrence J. Hogan proclaimed a state of emergency and catastrophic health emergency on March 5, 2020, and renewed it on March 17, 2020, April 10, 2020, May 6, 2020, June 3, 2020, July 1, 2020, July 30, 2020, August 10, 2020, September 8, 2020, October 6, 2020, October 29, 2020, and November 25, 2020, December 23, 2020, and January 21, 2021 to control and prevent the spread of the Novel Coronavirus (“SARS-CoV-2”) and the disease that it causes - Coronavirus Disease 2019 (“COVID-19”).
4. The effects of COVID-19 require that local health officials be vigilant in advising the residents of measures they can take to protect health, safety, and welfare.
5. The currently known and available scientific evidence and best practices support continued limitations on large gatherings, increased use of face coverings, and continued social distancing to prevent exposures and transmissions, and reduce the threat to especially vulnerable members of the population.
6. The COVID-19 virus is nearly uncontrolled in many locations in Maryland. A strong possibility exists that cases will rise back to levels that previously necessitated stay at home orders.
7. On May 13, 2020 Governor Hogan issued State Executive Order 20-05-13-01 that continued to restrict gatherings of more than ten people for social, community,

recreational, leisure, and sporting activities and events, requires the continued closure of certain non-essential businesses, and allows for the limited re-opening of certain businesses and activities under certain conditions. The Governor authorized Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by the State Executive Order if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19.

8. On May 15, 2020, the Executive issued Montgomery County Executive Order 067-20, COVID-19 Local Order, which was more restrictive than State Executive Order 20-05-13-01 and included criteria for safely lifting the stay at home order and beginning to reopen businesses.
9. On May 27, 2020 the Governor issued State Executive Order 20-05-27-01 further expanding reopening of certain businesses and facilities, subject to local regulations.
10. On May 28, Montgomery County had demonstrated significant progress and trends towards meeting much of the criteria listed in County Executive Order 067-20.
11. On May 28, 2020, County Executive Elrich issued Executive Order No. 070-20, COVID-19 Local Order – Phase, reducing some of the stay at home restrictions in the County beginning on June 1, 2020.
12. On June 10, 2020, Governor Hogan issued Executive Order 20-06-10-01 lifting more restrictions in the State but again gave Maryland Counties the authority to continue to impose limitations on business and personal activities that were more restrictive than those permitted under the Governor’s Executive Order.
13. On June 15, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations that are more restrictive than the Governor’s Order to prevent the spread of COVID-19 but that some restrictions could be lifted. The Executive issued an Executive Order on June 15 and amended it on June 16. EO 082-20, COVID-19 Local Order – Phase 2, moved the County into Phase 2 by lifting the stay at home order and certain other restrictions on businesses and activities.
14. On August 3, 2020, Governor Hogan issued Executive Order 20-08-03-01 renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order Number 20-08-03-01, if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID- 19.
15. On August 3, 2020, County Executive Elrich, after consulting with the County Health Officer, determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-08-03-01 in order to prevent the spread of

COVID-19 and issued Executive Order No. 087-20, COVID-19 Local Order – Amending and Restating Order dated June 19, 2020. The Council approved Executive Order No. 087-20 on August 4, 2020 in Resolution No. 19-579.

16. On August 21, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-08-03-01 in order to prevent the spread of COVID-19.
17. On August 21, 2020, the Executive issued Executive Order No. 098-20, COVID-19 Local Order – Amending and Restating Order dated August 5, 2020, which imposed limitations on business and personal activities that are more restrictive than those permitted under State Executive Orders, but lessens the restrictions on certain businesses and activities. The Council approved Executive Order No. 098-20 on August 24, 2020 in Resolution No. 19-583.
18. On September 18, 2020, Governor Hogan issued State Executive Order 20-09-18-01 renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order 20-09-18-01, if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19.
19. On September 21, 2020, the Executive issued Executive Order No. 114-20, COVID-19 Local Order – Amending and Restating Order dated September 22, 2020, which imposed limitations on business and personal activities that are more restrictive than those permitted under State Executive Orders, but lessens the restrictions on certain businesses and activities. On September 22, 2020, the Council adopted Resolution No. 19-598, which approved Executive Order 114-20.
20. On September 26, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-09-18-01 in order to prevent the spread of COVID-19.
21. On September 26, 2020, the Executive issued Executive Order No. 117-20, COVID-19 – Local Order Amending and Restating Order dated September 22, 2020, which allows certain food service establishments to apply for a Late-Night Alcohol Sales Program permit. The Council approved Executive Order 117-20 on October 1, 2020 and the Board of Health approved Executive Order 117-20 as a Board of Health Regulation on October 1, 2020 in Resolution No. 19-618.
22. On October 16, 2020, Governor Hogan issued Executive Order 20-10-16-02 renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order Number 20-10-16-02, if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19.

23. On November 3, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-10-16-02 in order to prevent the spread of COVID-19.
24. On November 3, 2020, the Executive issued Executive Order No. 122-20, COVID-19 – Local Order Amending and Restating Order dated September 29, 2020 which amends the limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-10-16-02 in order to prevent the spread of COVID-19.
25. The Council held a public hearing and worksession on Executive Order 122-20 on November 5. Based on the November 5 Council meeting, the Executive submitted Executive Order 122-20 AM on November 6, 2020.
26. On November 10, 2020, the Council adopted Resolution No. 19-641 approving Executive Order 122-20 AM, COVID-19 – Local Order Amending and Restating Order dated September 29, 2020. The Council, sitting as the Board of Health, also adopted Resolution No. 19-642 approving the Executive Order as a Board of Health Regulation.
27. On November 17, 2020, Governor Hogan issued Executive Order 20-11-17-01 renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order Number 20-11-17-01, if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID- 19.
28. On December 9, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-11-17-01 in order to prevent the spread of COVID-19.
29. On December 9, 2020, the Executive issued Executive Order No. 139-20, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020, which expands the limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-11-17-01 in order to prevent the spread of COVID-19.
30. On December 11, 2020, the Executive issued Executive Order No. 139-20AM2, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020, which clarified the restrictions on childcare providers and updated the link to the American Academy of Pediatrics guidance on face coverings.
31. On December 14, 2020, the Executive issued Executive Order No. 139-20AM2, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020. The amended Executive Order 139-20AM2, in addition to the changes made by Executive Order 139-20 and Executive Order 139-20AM, adds language permitting a

large retail establishment to exceed the 150 person limit if the retail establishment is large enough to limit capacity to 1 person per 200 sq. ft. of retail space and has received written approval from the County.

32. On December 15, 2020, the Council approved Resolution No. 19-698 approving Executive Order No. 139-20AM2 and Resolution No. 19-699 adopting Executive Order No. 139-20AM2 as a Board of Health Regulation.
33. On February 2, 2021, the Executive issued Executive Order No. 19-21, COVID-19 – Local Order Amending and Restating Order dated December 15, 2020, which permitted indoor dining in food service establishments on a limited basis and made several other clarifying changes.
34. On February 8, 2021, the Executive issued an amended Order, Executive Order No. 19-21AM, COVID-19 Local Order Amending and Restating Order dated December 15, 2020. EO 19-21AM would limit indoor dining customers to a 90-minute dining period and would take effect on February 14, 2021 at 7:00 a.m.
35. The Council held a public hearing and worksession on Executive Order [[19-21]]19-21AM on February 9.
36. 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.
37. The County Council, sitting as the Board of Health, finds after hearing the testimony and other evidence in the record of the public hearing, finds that the limitations on business and personal activities contained in Executive Order No. [[19-21]] 19-21AM, COVID-19 – Local Order Amending and Restating Order dated December 15, 2020 are necessary to limit the spread of COVID-19.

Action

The County Council for Montgomery County, Maryland, sitting as the County Board of Health, declares that adopting this Board of Health Regulation is an emergency and approves the following regulation:

Executive Order No. [[19-21]] 19-21AM, COVID-19 – Local Order Amending and Restating Order dated December 15, 2020, attached hereto, is adopted as a Board of Health Regulation for Montgomery County and takes effect on [[February 9, 2021 at 5:00 p.m.]] February 14, 2021 at 7:00 a.m.



MONTGOMERY COUNTY EXECUTIVE ORDER

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject COVID-19 – Local Order Amending and Restating Order dated December 15, 2020	Executive Order No. 19-21AM	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 2/14/2021

BACKGROUND

WHEREAS, a state of emergency and catastrophic health emergency was proclaimed by Lawrence J. Hogan, the Governor of the State of Maryland on March 5, 2020, and renewed on March 17, 2020, April 10, 2020, May 6, 2020, June 3, 2020, July 1, 2020, July 30, 2020, August 10, 2020, September 8, 2020, on October 6, 2020, October 29, 2020, November 25, 2020, December 23, 2020, and on January 21, 2021 to control and prevent the spread of COVID-19 within the state, and the state of emergency and catastrophic health emergency still exists;

WHEREAS, the effects of COVID-19 require that local officials be vigilant in advising all individuals in Montgomery County, Maryland of measures they can take to protect health, safety, and welfare;

WHEREAS, the currently known and available scientific evidence and best practices support continued limitations on large gatherings, increased use of face coverings, and continued social distancing to prevent exposures and transmissions, and reduce the threat to especially vulnerable populations, including older individuals and those with chronic health conditions;

WHEREAS, to reduce the threat to human health caused by transmission of COVID-19 and to protect and save lives, it is necessary and reasonable that individuals in the Montgomery County continue to engage in social distancing, use of face coverings, and refrain from congregating in large groups;

WHEREAS, it continues to be necessary to control and direct the occupancy and use of buildings and premises, as well as places of amusement and assembly within Montgomery County;

WHEREAS, on January 28, 2021, Governor Hogan issued State Executive Order [21-01-28-01](#), which renews the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order [21-01-28-01](#) if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19; and

WHEREAS, Montgomery County has determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order [21-01-28-01](#) in order to prevent the spread of COVID-19;

NOW, THEREFORE, BE IT ORDERED, PURSUANT TO THE AUTHORITY GRANTED IN GOVERNOR HOGAN'S EXECUTIVE ORDER [21-01-28-01](#) AND IN AN EFFORT TO PROTECT THE



MONTGOMERY COUNTY EXECUTIVE ORDER

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject COVID-19 – Local Order Amending and Restating Order dated December 15, 2020	Executive Order No. 19-21AM	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 2/14/2021

PUBLIC HEALTH, WELFARE, AND SAFETY, AND CONTROL AND PREVENT THE SPREAD OF COVID-19 WITHIN MONTGOMERY COUNTY, I HEREBY ORDER:

1. Administrative and Implementing Provisions.

This County Executive Order Number 067-20 dated May 15, 2020, as amended and restated by Order No. 070-20 dated May 28, 2020, as amended and restated by Order No. 082-20, as amended and restated by Order No. 087-20, as amended and restated by Order No. 098-20, as amended and restated by Order No. 114-20, as amended and restated by Order No. 117-20, as amended and restated by Order No. 122-20AM, as amended and restated by Order 139-20AM2, and as further amended and restated in its entirety as set forth herein.

2. Face Coverings.

a. Definitions.

- i. "Face Covering" means a covering that fully covers a person's nose, mouth, and chin and is secured to the person's head. The term "Face Covering" includes, without limitation, cloth face coverings, scarves, and bandanas. The term excludes Medical-Grade Masks.
- ii. Use of the following does not satisfy the County's Face Covering mandate:
 - (1) wearing a face covering with a valve; or
 - (2) solely wearing a face shield.
- iii. "Medical-Grade Mask" means an N95, KN95, surgical, or other mask that would be appropriate for a health care setting.
- iv. "Public Transportation" means shared-ride surface transportation services that are open to the general public, including without limitation, taxi services, ride-sharing services, car services, and transit services operating within Montgomery County. Examples of Public Transportation include, but are not limited, to Ride-On bus service, WMATA bus and train service, MARC train service, and Mobility and Paratransit services.

b. Requirement.

- i. Except as provided in paragraph 2.c below, all persons in the County over the age of two (2) years old are required to wear a Face Covering when
 - (1) in or on any form of Public Transportation;
 - (2) indoors at any location where members of the public are generally permitted, including without limitation, Religious Facilities, Retail Establishments, Foodservice Establishments, Fitness Centers, Gaming Facilities, Indoor Recreation Establishments, and Personal Services Establishments;



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- (3) leaving their residences and likely to come into contact with another person, such as being within 6 feet of another person for more than a fleeting time;
- (4) obtaining healthcare services, including without limitation, in offices of physicians and dentists, hospitals, pharmacies, and laboratories; and
- (5) engaged in work in any area where:
 - a. interaction with others is likely, including without limitation, in shared areas of commercial offices; or
 - b. food is prepared or packaged;
- (6) at all times in a foodservice establishment unless actively engaged in eating or drinking.
- ii. Single-use Face Coverings shall be properly discarded in trash receptacles. It is recommended that all reusable Face Coverings be cleaned frequently (at least once per day).
- iii. Wearing a Medical-Grade Mask satisfies any requirement in paragraph 2.b to wear a Face Covering, but all persons in Montgomery County are urged to reserve Medical-Grade Masks for use by health care workers and first responders.
- c. Exceptions. Paragraph 2.b does not require persons to wear Face Coverings:
 - i. if, due to a bona fide disability or medical condition, it would be unsafe for the person to do so;
 - ii. to the extent wearing a Face Covering would impede communication by or with persons who have a hearing impairment or other disability, where the ability to see the mouth is essential for communication;
 - iii. if wearing a Face Covering would subject the person to an unsafe working condition, as determined by federal, state, or local occupational safety regulators or workplace safety guidelines;
 - iv. to the extent wearing a Face Covering would make it impossible to receive services requiring access to the face, mouth, or head, including without limitation, dental care, shaving, and facial treatments;
 - v. while actively engaged in eating or drinking;
 - vi. while swimming or engaging in other physical activities where the use of a Face Covering is likely to pose a bona fide safety risk;
 - vii. for individuals under the age of eighteen (18) when actively engaged in certain sports – as recommended by the [American Academy of Pediatrics](#); or
 - viii. while operating any Public Transportation conveyance, provided that the person is (1) the sole operator of the conveyance, and (2) located in a separate compartment that is off-limits to riders.



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3. General Operating Requirements.

- a. Unless explicitly stated in another provision of this order, all businesses, organizations, establishments, and facilities that are permitted to operate under this Order shall, as a condition of their continued operation:
 - i. require employees and customers to maintain social distancing of greater than 6 feet, whenever possible, as recommended by the Centers for Disease Control and Prevention (“CDC”) and the Maryland Department of Health (“MDH”);
 - ii. utilize markings and signage to guide employees and customers;
 - iii. comply with the Face Covering requirements in paragraph 2.b;
 - iv. provide employees with guidance and training to reflect updated CDC guidelines for their workplace;
 - v. use CDC and Environmental Protection Agency (“EPA”) approved disinfectants to clean spaces daily; including use of disinfectants to wipe down high contact surfaces at least once every 2 hours while staff or customers are present (“high contact surfaces” are surfaces that will have human contact at least once an hour);
 - vi. require employees to wash their hands hourly; and
 - vii. follow review and implement new CDC, MDH, and Montgomery County Department of Health & Human Services (“DHHS”) guidelines as they are issued.
- b. All businesses, organizations, establishments, and facilities in Montgomery County shall comply with any directive or orders issued by the Local Health Officer, pursuant to State Executive Orders [20-04-05-02](#) (“Delegating Authority to Local Officials to Control and Close Unsafe Facilities”) and [21-01-28-01](#) (“Amending and Restating the Order of November 17, 2020, Regulating Certain Businesses and Facilities and Generally Requiring Use of Face Coverings”), as may be amended from time to time.
- c. All businesses, organizations, establishments, and facilities that are permitted to open shall post signage indicating that they are in compliance with all provisions of paragraph 3.a of this Order.
- d. Unless explicitly stated to the contrary, the General Operating requirements apply to all provisions in this order.

4. Letters of Approval.

- a. Requests for a Letter of Approval must be submitted a minimum of 5 business days before the scheduled event. Failure to submit a timely request will result in an automatic denial of the Letter of Approval.



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- b. Failure to obtain a Letter of Approval prior to proceeding with an event will be considered to be a violation of this Order and could subject the requestor, organizer, and venue to the appropriate fines and sanctions pursuant to paragraph 12 of this Order.
- c. Any person, organizer, or venue who is found to have held an event without a Letter of Approval will be automatically disqualified from receiving a future Letter of Approval.

5. Gatherings.

- a. Unless explicitly stated in another paragraph of this Order:
 - i. Outdoor gatherings of more than 25 people continue to be prohibited at all locations and venues, including but not limited to parties, receptions, parades, festivals, conventions, and fundraisers.
 - ii. Indoor gatherings of more than 10 people are prohibited.
 - iii. Planned large gatherings and events must be canceled or postponed until after termination of the state of emergency and the proclamation of the catastrophic health emergency has been rescinded.
 - iv. Social, community, recreational, and leisure gatherings must follow the following physical precautions:
 - (1) for indoor gatherings 1 person or household per 200 sq. ft or a maximum of 10 people, whichever number is lower;
 - (2) for outdoor gatherings 1 person or household per 200 sq. ft or a maximum of 25 people, whichever number is lower; and
 - (3) the size of the location and venue must accommodate applicable social distancing for the number of attendees.
 - v. Social gatherings, for the purposes of this Executive Order, shall also include all non-professional sports gatherings and events.
 - vi. A social gathering is a gathering of persons from more than one household. If more than one household is present at a gathering each individual present at the gathering must be counted for purposes of determining compliance.

6. Businesses, Organizations, Establishments and Facilities That May Be Open.

- a. *Bowling alleys.* May open provided:
 - i. number of persons is limited to 25% occupancy or a maximum of 25 people, whichever number is lower;
 - ii. all equipment (balls, shoes, etc.) and spaces (lanes, tables, seats) must be cleaned between each person(s) or group's use with CDC and EPA approved cleaners; and
 - iii. any foodservice establishment located within the bowling alley must conform to all of the standards as established in paragraph 6.e. of this Order.



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- b. *Childcare*. Must continue to follow the phase two childcare capacity limits and child-adult ratios that are currently in effect for all childcare providers in Montgomery County as stated in the Maryland Department of Education’s [June 10, 2020 Child Care Operating Procedures](#) and [November 19, 2020 waiver letter](#).
- c. *Cigar Bars/Hookah Bars/Vape Shops*. May open solely to sell retail goods. Smoking on site is strictly prohibited.
- d. *Fitness Centers*. May open provided:
 - i. limit 1 person per 200 sq. ft. of indoor space or 25% occupancy, whichever number is lower;
 - ii. strictly enforce social distancing and the requirement that individuals wear masks while exercising; and
 - iii. follow the State’s [Best Practices for Fitness Centers, Martial Arts, Dance Studios](#) as amended from time to time.
 - iv. Fitness Centers include, but are not limited to dance studios, health clubs, health spas, gyms, training facilities, and other indoor physical activities.
 - v. Fitness Centers that provide sport-specific training for high-risk sports as defined in [Maryland Sports Commission Return to Play Report](#) must follow the restrictions in paragraph 6.1 below.
- e. *Foodservice Establishments*.
 - i. Restaurants, bars, and other similar establishments that sell food or beverages for consumption on-premises in Montgomery County and social and fraternal clubs with dining facilities (collectively “Foodservice Establishments”) may, to the extent permitted by applicable law:
 - (1) serve food and beverages to customers for consumption in indoor seating areas up to a maximum of 25% of the establishment’s maximum occupancy;
 - (2) serve food and beverages to customers for consumption in outdoor seating areas pursuant to paragraph 6.e.iii;
 - (3) sell food and beverages that are promptly taken from the premises, i.e., on a carry-out or drive-through basis; and
 - (4) deliver food and beverages to customers off the premises.
 - ii. Foodservice Establishments must:
 - (1) require all staff to wear Face Coverings pursuant to paragraph 2 of this Order;
 - (2) require all customers to wear Face Coverings unless actively engaged in the act of eating or drinking (e.g. while seated at the table and talking but not eating or drinking);



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- (3) ensure that all alcoholic beverages are off all tables and collected from customers by 10 p.m.;
 - (4) suspend the sale or provision of alcoholic beverages for on-site consumption after 10 p.m.;
 - (5) maintain a daily record of the following information for at least 30 days, to assist with contact tracing:
 - a. date;
 - b. time; and
 - c. name and contact information for at least one person of each dining party;
 - (6) limit customers in indoor dining to a ninety-minute dining period;
 - a. “dining period” is defined as the period of time from when the customer is seated until the time the customer exits the establishment after consumption of their food and/or beverage.
 - (7) follow all provisions of the MDH’s Amended Directive and Order Regarding Food Service Establishments ([Order No. MDH 2020-11-17-03](#)), as may be amended from time to time, that do not conflict with any provision of this Order; and
 - (8) post signage at each outdoor dining entrance advising customers and visitors that:
 - a. they must comply with the Face Covering requirements at all times when they are not actively eating or drinking;
 - b. they must maintain social distancing of at least 6 feet when waiting to be seated; and
 - c. failure to wear Face Coverings or maintain social distancing may result in their being refused service and found to be in violation of the COVID-19 Local Order and subject to criminal penalties as stated in the Order.
- iii. Foodservice Establishments that erect a temporary outdoor structure, such as a tent, for the purpose of outdoor dining:
- (1) must follow all guidelines issued by DHHS and DPS and obtain any necessary permits from the Department of Permitting Services for the temporary structure;
 - (2) temporary outdoor structures that are in the shape of a rectangle, must at all times maintain at least one side of the structure entirely open;
 - (3) temporary outdoor structures that are not in the shape of a rectangle (e.g. yurts or dining bubbles) must apply for and obtain a Letter of Approval before being used by the food service establishment;



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(4) total capacity for a temporary outdoor structure may not exceed 1 table per every 50 sq. ft, but there must be a minimum of 6 ft between persons seated at different tables.

f. *Malls.*

- i. Shopping centers with one or more enclosed pedestrian concourses may maintain pedestrian concourses and other interior common areas open, but solely to the extent necessary for the general public to enter and exit retail establishments.
- ii. Food courts located inside indoor malls shall be limited to carry-out services only; dining at tables or other spaces in food courts is prohibited.
- iii. Congregating in any indoor area outside of retail stores (including food courts) is prohibited.
- iv. Malls shall remove tables, chairs, benches, or any other items which could encourage congregating from food courts and other indoor areas outside of retail stores.

g. *Museums and Art Galleries.* May open provided:

- i. limit 1 person per 200 sq. ft of exhibit-space or in-store space or 25% occupancy, whichever number is lower; and
- ii. exhibits requiring contact (for example “please touch” exhibits or other interactive displays) must remain closed.

h. *Personal Services.*

- i. Hair salons, barbershops, and establishments that provide tanning, tattoo, waxing, threading, electrolysis, cryotherapy, facial and other skin services, massage, and nail technician services (“Personal Services Establishments”) may open, by appointment only, provided the following physical precautions are met and followed:
 - (1) all staff are required to wear gloves, and any other Personal Protective Equipment (“PPE”) as appropriate to their workplace and provided service;
 - (2) limit of 1 customer for every 200 sq. ft of service delivery space or 25% occupancy, whichever number is lower;
 - (3) limit of 1 customer in a waiting area at a time, other customers waiting for appointments must wait outside the Personal Services Establishments;
 - (4) follow the State’s [Best Practices for Personal Service Establishments](#) as amended from time to time.

- i. *Pools.* Must strictly comply with any guidance issued by DHHS.



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- j. *Retail Establishments.* May open provided:
- limit 1 person per 200 sq. ft of retail space;
 - any retail establishment that intends to have and can physically accommodate more than 150 persons must have a Letter of Approval to exceed 150 persons;
 - all requests for a Letter of Approval to exceed 150 persons must:
 - detail how the establishment will monitor the number of people in the building at any given time;
 - detail how the establishment will ensure maintained social distancing at points of congregation in the building such as the entrance, exit, in check-out lines; and between check-out lines; and
 - detail modified staffing strategies to reduce employee exposure;
 - employees use any additional Personal Protective Equipment as appropriate to their workplace.
- k. *Religious Facilities.* Churches, synagogues, mosques, temples, and other similar religious facilities of any faith (“Religious Facilities”) may open to the general public for indoor and outdoor services provided the Religious Facility complies with the following:
- Gathering size.
 - shall be determined by dividing the total square footage of the worship space by 50, however total number of persons shall not exceed 25% of permitted occupancy; and
 - occupancy numbers shall include faith leaders, volunteers, and congregants.
 - Spacing.
 - seating must be marked to reflect appropriate distancing;
 - facilities with fixed seating or pews, every other row must remain empty and marked off to prohibit seating;
 - individuals that are not a part of the same household must maintain 6 feet of social distance from the point of entry into the facility through their exit from the facility; and
 - only exceptions are where the core activity or safety require shorter distance (for example, pallbearers).
 - Other requirements.
 - Prior to the first service of each day in which they participate, faith leaders, volunteers and other staff must:
 - be screened (verbally, in writing, or online) using the following questions:
 - Are you suffering from any of the common symptoms of COVID-19 (coughing, difficulty breathing, loss of taste etc.)?



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- ii. Have you had close personal contact with anybody known to have a positive COVID-19 diagnosis over the past two weeks?
 - b. where allowed by religious tenant, have their temperature screened:
 - i. anyone with a temperature in excess of 100.4°F must be excluded from the religious facility until at least 72 hours after symptoms resolve.
 - c. exclude anyone that exhibits symptoms consistent with COVID-19 until at least 72 hours after their symptoms resolve; and
 - d. notify Montgomery County Disease Control at 240-777-1755 if they learn that a person who attended or participated in a religious ceremony is diagnosed with or develops symptoms consistent with COVID-19.
- (2) Use CDC and EPA approved disinfectants to clean restrooms and high contact surfaces between each religious service.
- iv. absent a Letter of Approval from DHHS, the number of outdoor service participants shall not exceed 25 participants.

1. *Sports.*

- i. All sports are categorized by level of risk as detailed in the [Maryland Sports Commission Return to Play Report](#) with the following exceptions:
 - (1) solo kayaking/canoeing is considered to be low risk;
 - (2) tandem kayaking/canoeing is considered to be low risk if participants are from the same household.
- ii. Only the play of low-risk and medium-risk sports is permitted.
- iii. The play of high-risk sports is prohibited, however no-contact skills-building and drills are permitted.
- iv. High-risk sport scrimmages, games, matches, and competitions are prohibited.
- v. All sports participants, regardless of age must comply with the face covering requirement in paragraph 2.b, and the social distancing and hygiene requirements of paragraph 3.a.
- vi. Rented sport equipment must be thoroughly cleaned and disinfected pursuant to CDC guidelines using EPA approved cleaners and disinfectants between usage.
- vii. All tournaments, championships, or events are strictly prohibited unless a Letter of Approval is issued by the County.
- viii. Sports played outside must follow outdoor gathering guidelines and the total number of people present is limited to 25. This includes staff, coaches, players, and any parents, guardians, or immediate family.



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- ix. Sports played inside must follow the indoor gathering guidelines and the total number of people present is limited to 10. This includes staff, coaches, players, and any parents, guardians, or immediate family.
- x. Play and games with teams from outside of Maryland, Virginia, or the District of Columbia is prohibited.
- xi. Sports may not open to the general public or spectators. Parents, guardians, and immediate family of players may spectate provided they maintain the appropriate social distancing of greater than 6 feet between non-family members and the total number of individuals present does not exceed the applicable gathering size limit.

m. *Youth Camp Programs.*

- i. Must follow all provisions in applicable directives and orders issued by the Secretary of the MDH that do not conflict with this Order.

7. Other Businesses, Organizations, Establishments and Facilities That May Be Open.

- a. *Car Wash.*
- b. *Escape Rooms.*
 - i. Only private games of a maximum of 6 people all permitted.
 - ii. All games are by appointment only and must be staggered so as to prevent patrons from interacting with others outside of their group.
 - iii. Before and after each game, all items in game rooms (including but not limited to lock, props, and any touchable surfaces) are thoroughly cleaned using CDC and EPA approved disinfectants.
 - iv. The lobby area is sanitized and cleaned every hour to prevent prolonged exposure and contact for other patrons.
 - v. All items given to the patrons (walkie-talkies, boogie boards) are sanitized after each game prior to the use from another group.
- c. *Farms.* For “pick-your-own” produce by members of the public.
- d. *Manufacturing.*
- e. *Miniature golf.*
- f. *Office space.*
- g. *Outdoor recreation.*
 - i. parks for personal fitness and fitness classes;
 - ii. golf courses and driving ranges;
 - iii. outdoor archery and shooting ranges;
 - iv. marinas and watercraft rental businesses;
 - v. campgrounds;
 - vi. horse boarding and riding facilities; and
 - vii. playgrounds.



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- (1) Playgrounds are excluded from the cleaning requirements of paragraph 3.a.v.
- h. *Ice skating rinks.*
- i. Indoor ice skating rinks remain closed to the public but may operate as a Fitness Center for the purpose of individual or group training pursuant to paragraph 6.1.
 - ii. Outdoor ice skating rinks must follow the gathering size requirements, pursuant to paragraph 5 of this Order, and submit a request for a Letter of Approval, pursuant to paragraph 4, before reopening.
8. Other Businesses, Organizations, Establishments, and Facilities Required to Close.
- a. *Amusement parks.* Including stand-alone types, such as, but not limited to merry-go-rounds and roller coasters.
 - b. *Bingo halls.*
 - c. *Go-kart tracks*
 - d. *Recreation centers.*
 - e. *Roller skating rinks.*
 - f. *Senior Centers.*
 - g. *Social Clubs.*
 - h. *Theaters.*
 - i. This Order controls the occupancy and use of theatres in Montgomery County at which live performances occur or motion pictures are shown (“Theaters”).
 - ii. All Theaters shall remain closed to the general public.
 - i. *Trampoline Parks.*
 - j. Any other establishment not listed above that is subject to the admission and amusement tax under Title 4 of the Tax-General Article of the Maryland Code.
9. *Minimal Operations.* Staff and owners may continue to be on-site at any business, organization, establishment, or facility that is required to be closed pursuant to this Order only for the following purposes:
- a. Facilitating remote working (a/k/a/ telework) by other staff;
 - b. Maintaining essential property;
 - c. Preventing loss of, or damage to property, including without limitation, preventing spoilage of perishable inventory;
 - d. Performing essential administrative functions, including without limitation, picking up mail and processing payroll; and
 - e. Caring for live animals.
10. This Order shall be enforced by any County department or agency that has authority over the subject matter of any particular provision and the Montgomery County Police Department.



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11. I hereby adopt by reference the following portions of State Executive Order [21-01-28-01](#):
 - a. paragraph III.k (“Determination of Maximum Occupancy”); and
 - b. paragraph VII (“General Provisions”) and all its subparagraphs.
12. Pursuant to State Executive Order [21-01-28-01](#) paragraph VII.b, a person who knowingly and willfully violates this Order is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding one year or a fine not exceeding \$5,000 or both.
13. Enforcement of this Local Order shall be done in accordance with the provisions established in State Executive Order [21-01-28-01](#) and any other applicable local law.
14. This Local Order may be amended, upon consultation with the Local Health Officer and the approval of the Montgomery County Council.
15. If any provision of this Local Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of the Order shall remain in effect to the extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Local Order are severable.
16. This Local Order shall take effect February 14, 2021 at 7:00 a.m.

By: 
MARC ELRICH
County Executive

Approved as to form and legality:
Office of the County Attorney

By: 
Silvia C. Kinch, Division Chief

Date: 2/8/2021



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BACKGROUND

WHEREAS, a state of emergency and catastrophic health emergency was proclaimed by Lawrence J. Hogan, the Governor of the State of Maryland on March 5, 2020, and renewed on March 17, 2020, April 10, 2020, May 6, 2020, June 3, 2020, July 1, 2020, July 30, 2020, August 10, 2020, September 8, 2020, on October 6, 2020, October 29, 2020, [and on] November 25, 2020, December 23, 2020, and on January 21, 2021 to control and prevent the spread of COVID-19 within the state, and the state of emergency and catastrophic health emergency still exists;

WHEREAS, the effects of COVID-19 require that local officials be vigilant in advising all individuals in Montgomery County, Maryland of measures they can take to protect health, safety, and welfare;

WHEREAS, the currently known and available scientific evidence and best practices support continued limitations on large gatherings, increased use of face coverings, and continued social distancing to prevent exposures and transmissions, and reduce the threat to especially vulnerable populations, including older individuals and those with chronic health conditions;

WHEREAS, to reduce the threat to human health caused by transmission of COVID-19 and to protect and save lives, it is necessary and reasonable that individuals in the Montgomery County continue to engage in social distancing, use of face coverings, and refrain from congregating in large groups;

WHEREAS, it continues to be necessary to control and direct the occupancy and use of buildings and premises, as well as places of amusement and assembly within Montgomery County;

WHEREAS, on [November 17, 2020] January 28, 2021, Governor Hogan issued State Executive Order [20-11-17-01] 21-01-28-01, which renews the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order [20-11-17-01] 21-01-28-01 if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19; and

WHEREAS, Montgomery County has determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order [20-11-17-01] 21-01-28-01 in order to prevent the spread of COVID-19;

NOW, THEREFORE, BE IT ORDERED, PURSUANT TO THE AUTHORITY GRANTED IN GOVERNOR HOGAN'S EXECUTIVE ORDER [20-11-17-01] 21-01-28-01 AND IN AN EFFORT TO



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PROTECT THE PUBLIC HEALTH, WELFARE, AND SAFETY, AND CONTROL AND PREVENT THE SPREAD OF COVID-19 WITHIN MONTGOMERY COUNTY, I HEREBY ORDER:

1. Administrative and Implementing Provisions.

This County Executive Order Number 067-20 dated May 15, 2020, as amended and restated by Order No. 070-20 dated May 28, 2020, as amended and restated by Order No. 082-20, as amended and restated by Order No. 087-20, as amended and restated by Order No. 098-20, as amended and restated by Order No. 114-20, as amended and restated by Order No. 117-20, as amended and restated by Order No. 122-20AM, as amended and restated by Order 139-20AM2, and as further amended and restated in its entirety as set forth herein.

2. Face Coverings.

a. Definitions.

- i. “Face Covering” means a covering that fully covers a person’s nose, mouth, and chin and is secured to the person’s head. The term “Face Covering” includes, without limitation, cloth face coverings, scarves, and bandanas. The term excludes Medical-Grade Masks.
- ii. Use of the following does not satisfy the County’s Face Covering mandate:
 - (1) wearing a face covering with a valve; or
 - (2) solely wearing a face shield.
- iii. “Medical-Grade Mask” means an N95, KN95, surgical, or other mask that would be appropriate for a health care setting.
- iv. “Public Transportation” means shared-ride surface transportation services that are open to the general public, including without limitation, taxi services, ride-sharing services, car services, and transit services operating within Montgomery County. Examples of Public Transportation include, but are not limited, to Ride-On bus service, WMATA bus and train service, MARC train service, and Mobility and Paratransit services.

b. Requirement.

- i. Except as provided in paragraph 2.c below, all persons in the County over the age of two (2) years old are required to wear a Face Covering when
 - (1) in or on any form of Public Transportation;
 - (2) indoors at any location where members of the public are generally permitted, including without limitation, Religious Facilities, Retail Establishments, Foodservice Establishments, Fitness Centers, Gaming Facilities, Indoor Recreation Establishments, and Personal Services Establishments;



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- (3) leaving their residences and likely to come into contact with another person, such as being within 6 feet of another person for more than a fleeting time;
- (4) obtaining healthcare services, including without limitation, in offices of physicians and dentists, hospitals, pharmacies, and laboratories; and
- (5) engaged in work in any area where:
 - a. interaction with others is likely, including without limitation, in shared areas of commercial offices; or
 - b. food is prepared or packaged;
- (6) at all times in a foodservice establishment unless actively engaged in eating or drinking.
- ii. Single-use Face Coverings shall be properly discarded in trash receptacles. It is recommended that all reusable Face Coverings be cleaned frequently (at least once per day).
- iii. Wearing a Medical-Grade Mask satisfies any requirement in paragraph 2.b to wear a Face Covering, but all persons in Montgomery County are urged to reserve Medical-Grade Masks for use by health care workers and first responders.
- c. Exceptions. Paragraph 2.b does not require persons to wear Face Coverings:
 - i. if, due to a bona fide disability or medical condition, it would be unsafe for the person to do so;
 - ii. to the extent wearing a Face Covering would impede communication by or with persons who have a hearing impairment or other disability, where the ability to see the mouth is essential for communication;
 - iii. if wearing a Face Covering would subject the person to an unsafe working condition, as determined by federal, state, or local occupational safety regulators or workplace safety guidelines;
 - iv. to the extent wearing a Face Covering would make it impossible to receive services requiring access to the face, mouth, or head, including without limitation, dental care, shaving, and facial treatments;
 - v. while actively engaged in eating or drinking;
 - vi. while swimming or engaging in other physical activities where the use of a Face Covering is likely to pose a bona fide safety risk;
 - vii. for individuals under the age of eighteen (18) when actively engaged in certain sports – as recommended by the [American Academy of Pediatrics](#); or
 - viii. while operating any Public Transportation conveyance, provided that the person is (1) the sole operator of the conveyance, and (2) located in a separate compartment that is off-limits to riders.



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3. General Operating Requirements.

- a. Unless explicitly stated in another provision of this order, all businesses, organizations, establishments, and facilities that are permitted to operate under this Order shall, as a condition of their continued operation:
 - i. require employees and customers to maintain social distancing of greater than 6 feet, whenever possible, as recommended by the Centers for Disease Control and Prevention (“CDC”) and the Maryland Department of Health (“MDH”);
 - ii. utilize markings and signage to guide employees and customers;
 - iii. comply with the Face Covering requirements in paragraph 2.b;
 - iv. provide employees with guidance and training to reflect updated CDC guidelines for their workplace;
 - v. use CDC and Environmental Protection Agency (“EPA”) approved disinfectants to clean spaces daily; including use of disinfectants to wipe down high contact surfaces at least once every 2 hours while staff or customers are present (“high contact surfaces” are surfaces that will have human contact at least once an hour);
 - vi. require employees to wash their hands hourly; and
 - vii. follow review and implement new CDC, MDH, and Montgomery County Department of Health & Human Services (“DHHS”) guidelines as they are issued.
- b. All businesses, organizations, establishments, and facilities in Montgomery County shall comply with any directive or orders issued by the Local Health Officer, pursuant to State Executive Orders [20-04-05-02](#) (“Delegating Authority to Local Officials to Control and Close Unsafe Facilities”) and [21-01-28-01](#) [20-11-17-01] (“[Amending and Restating the Order Allowing Reopening of Certain Businesses and Facilities Subject to Local Regulations and Generally Requiring Use of Face Coverings] Amending and Restating the Order of November 17, 2020, Regulating Certain Businesses and Facilities and Generally Requiring Use of Face Coverings”), as may be amended from time to time.
- c. All businesses, organizations, establishments, and facilities that are permitted to open shall post signage indicating that they are in compliance with all provisions of paragraph 3.a of this Order.
- d. Unless explicitly stated to the contrary, the General Operating requirements apply to all provisions in this order.



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4. Letters of Approval.

- a. Requests for a Letter of Approval must be submitted a minimum of 5 business days before the scheduled event. Failure to submit a timely request will result in an automatic denial of the Letter of Approval.
- b. Failure to obtain a Letter of Approval prior to proceeding with an event will be considered to be a violation of this Order and could subject the requestor, organizer, and venue to the appropriate fines and sanctions pursuant to paragraph 12 of this Order.
- c. Any person, organizer, or venue who is found to have held an event without a Letter of Approval will be automatically disqualified from receiving a future Letter of Approval.

5. Gatherings.

- a. Unless explicitly stated in another paragraph of this Order:
 - i. Outdoor gatherings of more than 25 people continue to be prohibited at all locations and venues, including but not limited to parties, receptions, parades, festivals, conventions, and fundraisers.
 - ii. Indoor gatherings of more than 10 people are prohibited.
 - iii. Planned large gatherings and events must be canceled or postponed until after termination of the state of emergency and the proclamation of the catastrophic health emergency has been rescinded.
 - iv. Social, community, recreational, and leisure gatherings must follow the following physical precautions:
 - (1) for indoor gatherings 1 person or household per 200 sq. ft or a maximum of 10 people, whichever number is lower;
 - (2) for outdoor gatherings 1 person or household per 200 sq. ft or a maximum of 25 people, whichever number is lower; and
 - (3) the size of the location and venue must accommodate applicable social distancing for the number of attendees.
 - v. Social gatherings, for the purposes of this Executive Order [139-20], shall also include all non-professional sports gatherings and events.
 - vi. A social gathering is a gathering of persons from more than one household. If more than one household is present at a gathering each individual present at the gathering must be counted for purposes of determining compliance.

6. Businesses, Organizations, Establishments and Facilities That May Be Open.

- a. *Bowling alleys.* May open provided:



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- i. number of persons is limited to 25% occupancy or a maximum of 25 people, whichever number is lower;
 - ii. all equipment (balls, shoes, etc.) and spaces (lanes, tables, seats) must be cleaned between each person(s) or group's use with CDC and EPA approved cleaners; and
 - iii. any foodservice establishment located within the bowling alley must conform to all of the standards as established in paragraph 6.e. of this Order.
- b. *Childcare*. Must continue to follow the phase two childcare capacity limits and child-adult ratios that are currently in effect for all childcare providers in Montgomery County as stated in the Maryland Department of Education's [June 10, 2020 Child Care Operating Procedures](#) and [November 19, 2020 waiver letter](#).
- c. *Cigar Bars/Hookah Bars/Vape Shops*. May open solely to sell retail goods. Smoking on site is strictly prohibited.
- d. *Fitness Centers*. May open provided:
 - i. limit 1 person per 200 sq. ft. of indoor space or 25% occupancy, whichever number is lower;
 - ii. strictly enforce social distancing and the requirement that individuals wear masks while exercising; and
 - iii. follow the State's [Best Practices for Fitness Centers, Martial Arts, Dance Studios](#) as amended from time to time.
 - iv. Fitness Centers include, but are not limited to dance studios, health clubs, health spas, gyms, training facilities, and other indoor physical activities.
 - v. Fitness Centers that provide sport-specific training for high-risk sports as defined in [Maryland Sports Commission Return to Play Report](#) must follow the restrictions in paragraph 6.1 below.
- e. *Foodservice Establishments*.
 - i. Restaurants, bars, and other similar establishments that sell food or beverages for consumption on-premises in Montgomery County [(“Restaurants and Bars”),] and social and fraternal clubs [(“Social Clubs”)] with dining facilities[, and foodservices in healthcare facilities] (collectively “Foodservice Establishments”) may, to the extent permitted by applicable law:
 - (1) [must suspend service of food and beverage to customers for consumption indoors] serve food and beverages to customers for consumption in indoor seating areas up to a maximum of 25% of the establishment's maximum occupancy;



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- (2) [may only] serve food and beverages to customers for consumption in outdoor seating areas pursuant to paragraph 6.e.iii [between the hours of 6 a.m. and 10 p.m.];
- (3) sell food and beverages that are promptly taken from the premises, i.e., on a carry-out or drive-through basis; and [/or]
- (4) deliver food and beverages to customers off the premises.
- ii. [Foodservices in licensed healthcare facilities may continue to operate indoor dining provided they follow all other social distancing and cleaning requirements.]
Foodservice Establishments must:
 - (1) require all staff to wear Face Coverings pursuant to paragraph 2 of this Order;
 - (2) require all customers to wear Face Coverings unless actively engaged in the act of eating or drinking (e.g. while seated at the table and talking but not eating or drinking);
 - (3) ensure that all alcoholic beverages are off all tables and collected from customers by 10 p.m.;
 - (4) suspend the sale or provision of alcoholic beverages for on-site consumption after 10 p.m.;
 - (5) maintain a daily record of the following information for at least 30 days, to assist with contact tracing:
 - a. date;
 - b. time; and
 - c. name and contact information for at least one person of each dining party;
 - (6) limit customers in indoor dining to a ninety-minute dining period;
 - a. “dining period” is defined as the period of time from when the customer is seated until the time the customer exits the establishment after consumption of their food and/or beverage.
 - (7) follow all provisions of the MDH’s Amended Directive and Order Regarding Food Service Establishments ([Order No. MDH 2020-11-17-03](#)), as may be amended from time to time, that do not conflict with any provision of this Order; and
 - (8) post signage at each outdoor dining entrance advising customers and visitors that:
 - a. they must comply with the Face Covering requirements at all times when they are not actively eating or drinking;
 - b. they must maintain social distancing of at least 6 feet when waiting to be seated; and



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- c. failure to wear Face Coverings or maintain social distancing may result in their being refused service and found to be in violation of the COVID-19 Local Order and subject to criminal penalties as stated in the Order.
- iii. Foodservice Establishments that erect a temporary outdoor structure, such as a tent, for the purpose of outdoor dining:
- (1) must follow all guidelines issued by DHHS and DPS and obtain any necessary permits from the Department of Permitting Services for the temporary structure;
 - (2) temporary outdoor structures that are in the shape of a rectangle, must at all times maintain at least one side of the structure entirely open;
 - (3) temporary outdoor structures that are not in the shape of a rectangle (e.g. yurts or dining bubbles) must apply for and obtain a Letter of Approval before being used by the food service establishment;
 - (4) total capacity for a temporary outdoor structure may not exceed 1 table per every 50 sq. ft, but there must be a minimum of 6 ft between persons seated at different tables.
- [iv. Foodservice establishments must follow all provisions of the MDH's [Amended Directive and Order Regarding Food Service Establishments](#) (Order No. MDH 2020-11-17-03) that do not conflict with any provision of this Order;
- v. Foodservice establishments shall not be open to the public between the hours of 10:00 p.m. and 6:00 a.m.; provided, however, that during such hours Foodservice Establishments may continue to:
- (1) sell food and beverages that are promptly taken from the premises (i.e., on a carry-out or drive-through basis), and
 - (2) deliver food and beverages to customers off the premises;
- vi. must maintain a daily record of the following information for at least 30 days, to assist with contact tracing:
- (1) date;
 - (2) time; and
 - (3) name and contact information for at least one person of each outdoor dining party;
- vii. must post signage at each outdoor dining entrance advising customers and visitors that:
- (1) they must comply with the face covering requirements at all times when they are not actively eating or drinking;
 - (2) they must maintain social distancing of at least 6 feet when waiting to be seated; and



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(3) failure to wear face coverings or maintain social distancing may result in their being refused service and found to be in violation of the COVID-19 Local Order and subject to criminal penalties as stated in the Order.]

f. *Malls.*

- i. Shopping centers with one or more enclosed pedestrian concourses may maintain pedestrian concourses and other interior common areas open, but solely to the extent necessary for the general public to enter and exit retail establishments.
- ii. Food courts located inside indoor malls shall be limited to carry-out services only; dining at tables or other spaces in food courts is prohibited.
- iii. Congregating in any indoor area outside of retail stores (including food courts) is prohibited.
- iv. Malls shall remove tables, chairs, benches, or any other items which could encourage congregating from food courts and other indoor areas outside of retail stores.

g. *Museums and Art Galleries.* May open provided:

- i. limit 1 person per 200 sq. ft of exhibit-space or in-store space or 25% occupancy, whichever number is lower; and
- ii. exhibits requiring contact (for example “please touch” exhibits or other interactive displays) must remain closed.

h. *Personal Services.*

- i. Hair salons, barbershops, and establishments that provide tanning, tattoo, waxing, threading, electrolysis, cryotherapy, facial and other skin services, massage, and nail technician services (“Personal Services Establishments”) may open, by appointment only, provided the following physical precautions are met and followed:
 - (1) all staff are required to wear gloves, and any other Personal Protective Equipment (“PPE”) as appropriate to their workplace and provided service;
 - (2) limit of 1 customer for every 200 sq. ft of service delivery space or 25% occupancy, whichever number is lower;
 - (3) limit of 1 customer in a waiting area at a time, other customers waiting for appointments must wait outside the Personal Services Establishments;
 - (4) follow the State’s [Best Practices for Personal Service Establishments](#) as amended from time to time.

i. *Pools.* Must strictly comply with any guidance issued by DHHS.



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- j. *Retail Establishments.* May open provided:
- limit 1 person per 200 sq. ft of retail space;
 - any retail establishment that intends to have and[, per paragraph 6.j.i.] can physically accommodate more than 150 persons must [, effective 5:00 p.m. on December 23, 2020,] have a Letter of Approval to exceed 150 persons;
 - all requests for a Letter of Approval to exceed 150 persons must:
 - detail how the establishment will monitor the number of people in the building at any given time;
 - detail how the establishment will ensure maintained social distancing at points of congregation in the building such as the entrance, exit, in check-out lines; and between check-out lines; and
 - detail modified staffing strategies to reduce employee exposure; [and
 - be submitted by 5:00 p.m. December 21, 2020; and];
 - employees use any additional Personal Protective Equipment as appropriate to their workplace.
- k. *Religious Facilities.* Churches, synagogues, mosques, temples, and other similar religious facilities of any faith (“Religious Facilities”) may open to the general public for indoor and outdoor services provided the Religious Facility complies with the following:
- Gathering size.
 - shall be determined by dividing the total square footage of the worship space by 50, however total number of persons shall not exceed 25% of permitted occupancy; and
 - occupancy numbers shall include faith leaders, volunteers, and congregants.
 - Spacing.
 - seating must be marked to reflect appropriate distancing;
 - facilities with fixed seating or pews, every other row must remain empty and marked off to prohibit seating;
 - individuals that are not a part of the same household must maintain 6 feet of social distance from the point of entry into the facility through their exit from the facility; and
 - only exceptions are where the core activity or safety require shorter distance (for example, pallbearers).
 - Other requirements.
 - Prior to the first service of each day in which they participate, faith leaders, volunteers and other staff must:
 - be screened (verbally, in writing, or online) using the following questions:



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- i. Are you suffering from any of the common symptoms of COVID-19 (coughing, difficulty breathing, loss of taste etc.)?
 - ii. Have you had close personal contact with anybody known to have a positive COVID-19 diagnosis over the past two weeks?
 - b. where allowed by religious tenant, have their temperature screened:
 - i. anyone with a temperature in excess of 100.4°F must be excluded from the religious facility until at least 72 hours after symptoms resolve.
 - c. exclude anyone that exhibits symptoms consistent with COVID-19 until at least 72 hours after their symptoms resolve; and
 - d. notify Montgomery County Disease Control at 240-777-1755 if they learn that a person who attended or participated in a religious ceremony is diagnosed with or develops symptoms consistent with COVID-19.
 - (2) Use CDC and EPA approved disinfectants to clean restrooms and high contact surfaces between each religious service.
 - iv. absent a Letter of Approval from DHHS, the number of outdoor service participants shall not exceed 25 participants.
1. *Sports.*
- i. All sports are categorized by level of risk as detailed in the [Maryland Sports Commission Return to Play Report](#) with the following exceptions:
 - (1) solo kayaking/canoeing is considered to be low risk;
 - (2) tandem kayaking/canoeing is considered to be low risk if participants are from the same household.
 - ii. Only the play of low-risk and medium-risk sports is permitted.
 - iii. The play of high-risk sports is prohibited, however no-contact skills-building and drills are permitted.
 - iv. High-risk sport scrimmages, games, matches, and competitions are prohibited.
 - v. All sports participants, regardless of age must comply with the face covering requirement in paragraph 2.b, and the social distancing and hygiene requirements of paragraph 3.a.
 - vi. Rented sport equipment must be thoroughly cleaned and disinfected pursuant to CDC guidelines using EPA approved cleaners and disinfectants between usage.
 - vii. All tournaments, championships, or events are strictly prohibited unless a Letter of Approval is issued by the County.



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- viii. Sports played outside must follow outdoor gathering guidelines and the total number of people present is limited to 25. This includes staff, coaches, players, and any parents, guardians, or immediate family.
- ix. Sports played inside must follow the indoor gathering guidelines and the total number of people present is limited to 10. This includes staff, coaches, players, and any parents, guardians, or immediate family.
- x. Play and games with teams from outside of Maryland, Virginia, or the District of Columbia is prohibited.
- xi. Sports may not open to the general public or spectators. Parents, guardians, and immediate family of players may spectate provided they maintain the appropriate social distancing of greater than 6 feet between non-family members and the total number of individuals present does not exceed the applicable gathering size limit.

m. *Youth Camp Programs.*

- i. Must follow all provisions in applicable directives and orders issued by the Secretary of the MDH that do not conflict with this Order.

7. Other Businesses, Organizations, Establishments and Facilities That May Be Open.

- a. *Car Wash.*
- b. *Escape Rooms.*
 - i. Only private games of a maximum of 6 people all permitted.
 - ii. All games are by appointment only and must be staggered so as to prevent patrons from interacting with others outside of their group.
 - iii. Before and after each game, all items in game rooms (including but not limited to lock, props, and any touchable surfaces) are thoroughly cleaned using CDC and EPA approved disinfectants.
 - iv. The lobby area is sanitized and cleaned every hour to prevent prolonged exposure and contact for other patrons.
 - v. All items given to the patrons (walkie-talkies, boogie boards) are sanitized after each game prior to the use from another group.
- c. *Farms.* For “pick-your-own” produce by members of the public.
- d. *Manufacturing.*
- e. *Miniature golf.*
- f. *Office space.*
- g. *Outdoor recreation.*
 - i. parks for personal fitness and fitness classes;
 - ii. golf courses and driving ranges;
 - iii. outdoor archery and shooting ranges;
 - iv. marinas and watercraft rental businesses;



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- v. campgrounds;
- vi. horse boarding and riding facilities; and
- vii. playgrounds.

(1) Playgrounds are excluded from the cleaning requirements of paragraph 3.a.v.

h. *Ice skating rinks.*

- i. Indoor ice skating rinks remain closed to the public but may operate as a Fitness Center for the purpose of individual or group training pursuant to paragraph 6.1.
- ii. Outdoor ice skating rinks must follow the gathering size requirements, pursuant to paragraph 5 of this Order, and submit a request for a Letter of Approval, pursuant to paragraph 4, before reopening.

8. Other Businesses, Organizations, Establishments, and Facilities Required to Close.

- a. *Amusement parks.* Including stand-alone types, such as, but not limited to merry-go-rounds and roller coasters.
- b. *Bingo halls.*
- c. *Go-kart tracks*
- d. *Recreation centers.*
- e. *Roller skating rinks.*
- f. *Senior Centers.*
- g. *Social Clubs.*
- h. *Theaters.*
 - i. This Order controls the occupancy and use of theatres in Montgomery County at which live performances occur or motion pictures are shown ("Theaters").
 - ii. All Theaters shall remain closed to the general public.
- i. *Trampoline Parks.*
- j. Any other establishment not listed above that is subject to the admission and amusement tax under Title 4 of the Tax-General Article of the Maryland Code.

9. *Minimal Operations.* Staff and owners may continue to be on-site at any business, organization, establishment, or facility that is required to be closed pursuant to this Order only for the following purposes:

- a. Facilitating remote working (a/k/a/ telework) by other staff;
- b. Maintaining essential property;
- c. Preventing loss of, or damage to property, including without limitation, preventing spoilage of perishable inventory;
- d. Performing essential administrative functions, including without limitation, picking up mail and processing payroll; and
- e. Caring for live animals.



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10. This Order shall be enforced by any County department or agency that has authority over the subject matter of any particular provision and the Montgomery County Police Department.
11. I hereby adopt by reference the following portions of State Executive Order [\[20-11-17-01\]](#) [21-01-28-01](#):
- a. paragraph III.k (“Determination of Maximum Occupancy”); and
 - b. paragraph VII (“General Provisions”) and all its subparagraphs.
12. Pursuant to State Executive Order [\[20-11-17-01\]](#) [21-01-28-01](#) paragraph VII.b, a person who knowingly and willfully violates this Order is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding one year or a fine not exceeding \$5,000 or both.
13. Enforcement of this Local Order shall be done in accordance with the provisions established in State Executive Order [\[20-11-17-01\]](#) [21-01-28-01](#) and any other applicable local law.
14. This Local Order may be amended, upon consultation with the Local Health Officer and the approval of the Montgomery County Council.
15. If any provision of this Local Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of the Order shall remain in effect to the extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Local Order are severable.
16. This Local Order shall take effect [December 15, 2020] February 14, 2021 at [5:00 p.m.] 7:00 a.m.

By: 
MARC ELRICH
County Executive

Approved as to form and legality:
Office of the County Attorney

By: 
Silvia C. Kinch, Division Chief

Date: 2/8/2021