



Committee: Direct to Council

Committee Review: N/A

Staff: Robert H. Drummer, Senior Legislative Attorney

Purpose: To introduce agenda item – no vote expected

Keywords: #COVID19PublicHealthOrder

AGENDA ITEMS 1A & 1B

March 12, 2021

**Introduction/Public
Hearing/Action**

SUBJECT

Resolution to adopt a Board of Health Regulation to prevent the spread of COVID-19 in the County.
Lead Sponsor: Council President at the Request of the County Executive

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 continue restrictions to limit the spread of COVID-19 that are greater than the Governor's restrictions due to the numbers of infections in the County.
- Whether to lift some of the existing restrictions in the current Local Order.

DESCRIPTION/ISSUE

The Council sitting as the Board of Health, would introduce a resolution to adopt a Board of Health Regulation to prevent the spread of COVID-19 in the County, hold a public hearing on the Regulation, and act on it.

SUMMARY OF KEY DISCUSSION POINTS

This report contains:

Staff Report

Proposed Board of Health Regulation

Governor's Executive Order No. 21-03-09-01

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M E M O R A N D U M

March 11, 2021

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: Resolution to adopt Board of Health Regulation to prevent the spread of COVID-19 in the County.

PURPOSE: Introduction/Public Hearing/Action– Council vote required

Maryland Governor Hogan declared 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, November 25, 2020, December 23, 2020, January 21, 2021, and on February 19, 2021 to control and prevent the spread of SARS-CoV-2 also known as COVID-19 within the state and both the state of emergency and catastrophic health emergency still exist in Maryland.

Each of these Executive Orders authorized the County to issue a local order requiring additional restrictions on businesses, organizations, establishments, facilities (except schools), and individuals to limit exposure to COVID-19 within the County. County Executive Elrich issued a series of Executive Orders pursuant to this authority. The Council approved each of these Executive Orders and adopted each of them, sitting as the Board of Health, as a Board of Health Regulation.

Governor Hogan issued Executive Order No. 21-03-09-01 on March 9, 2021 (©11-18). Executive Order No. 21-03-09-01 removed many restrictions contained in prior Orders and retracted the authority granted to the County by the Governor to issue a Local Order that was more restrictive than the Governor's Order as of March 12, 2021 at 5 p.m. Although the Governor retracted this authority, the Council, sitting as the Board of Health, as independent authority to issue a public health regulation to continue restrictions to limit the spread of COVID-19 in the County. Md. Health-General Code Ann. § 3-302(d) provides:

- (d) **Nuisances; disease.** -- In addition to the other powers provided by law and subject to the provisions of this article, each county board of health may adopt and enforce rules and regulations on any nuisance or cause of disease in the county.

Md. Local Government Code Ann. § 10-328 provides the County with the following additional authority:

- (a) **In general.** -- A county may provide for the prevention, abatement, and removal of nuisances.
- (b) **Contagious diseases.** -- A county may provide for the prevention of contagious diseases in the county.
- (c) **Regulation of offensive trades.** -- A county may regulate any place where offensive trades are conducted or that may involve or give rise to unsanitary conditions or conditions detrimental to health.
- (d) **Construction.** -- This title does not affect:
 - (1) any power or duty of the Secretary of Health or the Secretary of the Environment; or
 - (2) any public general law relating to health.

Based on this authority, County Executive Elrich submitted a proposed Board of Health Regulation to the Council on March 11, 2021 (see ©1-10). The proposed BOH Regulation would continue restrictions greater than the Governor's restrictions but loosen the restrictions imposed by the Local Order currently in effect. The Regulation would follow the recommendation of County Health Officer, Dr. Travis Gayles, and Director of Emergency Management, Dr. Earl Stoddard, to implement a progressive, staged relaxation of restrictions so we can disaggregate the data and assess the impact of the relaxation of the restrictions in other jurisdictions before deciding what is safest for the residents of Montgomery County.

The Council, sitting as the Board of Health, is scheduled to introduce the proposed Board of Health Regulation and hold a public hearing on Friday, March 12 at 1:30 p.m. Following the public hearing, the Board of Health is tentatively scheduled to act on the proposed regulation.

The proposed Board of Health Regulation would make the following changes from current local restrictions:

1. remove all local restrictions on childcare facilities and therefore require them to follow State requirements;
2. changes maximum capacity to align with fire or other occupancy permit;
3. increase outdoor gatherings to a maximum of 50 persons;
4. increase indoor gatherings to a maximum of 25 persons;
5. remove the 1 person per 200 square feet of space limits;
6. remove the alcohol limits on food service facilities;
7. remove the restriction on buffet service for food service facilities;
8. remove outdoor structure requirements for food service facilities;
9. permit food courts in malls to operate in the same manner as other food service facilities;
10. increase capacity for religious facilities to 50%;

11. permit arts and entertainment facilities to open at 25% capacity on March 26, 2021 provided they do not sell or permit food for consumption in the facility; and
12. on March 26, 2021, the capacity limits for indoor dining at food service facilities, fitness centers, bowling alleys, escape rooms, museums and art galleries, personal services facilities, pools, retail establishments, and recreation centers increases from 25% to 50%.

This packet contains:

Proposed Board of Health Resolution

Governor Hogan's Executive Order No. 21-03-09-01

Circle #

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Resolution No.: _____
Introduced: _____
Adopted: _____

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

Lead Sponsor: Council President at the Request of the County Executive

Subject: Board of Health Regulation to prevent the spread of COVID-19 in the County

Background

1. Lawrence J. Hogan, the Governor of the State of Maryland declared a state of emergency and catastrophic health emergency 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, October 6, 2020, October 29, 2020, November 25, 2020, December 23, 2020, January 21, 2021, and on February 19, 2021 to control and prevent the spread of SARS-CoV-2 also known as COVID-19 within the state and both the state of emergency and catastrophic health emergency still exist in Maryland.
2. 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.
3. There are multiple COVID-19 variants with the three primary variants being the United Kingdom variant (known as B.1.1.7) which may be associated with an increased risk of death, the South Africa variant (known as B.1.351); and the Brazil variant (known as P.1).
4. The potential consequences of emerging variants include the ability to: spread more quickly in people; cause milder or more severe disease in people; evade detection by specific diagnostic tests; decreased susceptibility to therapeutic agents such as monoclonal antibodies; and further delay or possibly evade natural or vaccine induced immunity.
5. Montgomery County is the only jurisdiction in Maryland with confirmed cases of all three primary variants.
6. It is imperative to control the community spread of COVID-19 to avoid further mutations which give rise to new variants until such time as a sufficient portion of the population of Montgomery County is inoculated against COVID-19.
7. To date only 18% of the population of Montgomery County has been vaccinated for COVID-19.

8. COVID-19 in Montgomery County has caused disease in Montgomery County which thus far has claimed the lives of 1,390 Montgomery County residents.
9. 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 further mutations.
10. 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 Montgomery County continue to engage in social distancing, use of face coverings, and refrain from congregating in large groups.
11. 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.
12. Due to Montgomery County's large population and the amount of interstate travel between the District of Columbia and the Commonwealth of Virginia, disease can spread faster.
13. On March 9, NAIAD Director and Chief COVID Advisor to President Biden, Anthony Fauci, told the Montgomery County Council "Now is the time to keep our foot on the accelerator with regard to adherence to public health measures, such as masking, physical distancing, and other measures that we know work to protect people from the SARS CoV-2 virus, while we are ramping up efforts to vaccinate as many people as we can as quickly as possible."
14. On March 1, CDC Director Rochelle Walensky said, "Please hear me clearly. At this level of cases with variants spreading, we stand to completely lose the hard-earned ground we have gained." "These variants are a very real threat to our people and to our progress. Now is not the time to relax the critical safeguards that we know could stop the spread of COVID-19 in our communities, not when we are so close."
15. Both County Health Officer, Dr. Travis Gayles, and County Director of Emergency Management, Dr. Earl Stoddard, recommended a progressive, staged relaxation of restrictions so we can disaggregate the data and assess the impact of the relaxation of the restrictions in other jurisdictions before deciding what is safest for the residents of Montgomery County.
16. Pursuant to Md. Code Ann. Local Government §10-328(b) a county may provide for the prevention of contagious diseases in the County.
17. A local Board of Health may, pursuant to Md. Code Ann. Health Gen. §3-202(d), adopt and enforce rules and regulations on any cause of disease in the County.
18. Pursuant to Montgomery County Code 2-65, the County Council is and may act as the County Board of Health.

19. 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.
20. The County Council, sitting as the Board of Health, finds after hearing the testimony and other evidence in the record of the public hearing that this public health regulation is necessary to protect the health of County residents.

Action

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

1. Definitions.

- a. “Face Covering” means a covering that fully covers a person’s nose, mouth, and chin and is secured to the person’s head, including cloth face coverings, scarves, and bandanas. It does not include face covering with a valve; or solely wearing a face shield.
- b. “Fitness Centers” means a fitness center, dance studios, health clubs, health spas, gyms, training facilities, ice rinks.
- c. “Foodservice Establishment” means a restaurant, bars, or other similar establishments that sell food or beverages for consumption on-premises in Montgomery County and social and fraternal clubs with dining facilities.
- d. “Maximum Occupancy” means (i) the maximum occupancy load of a facility under the applicable fire code or pursuant to applicable laws, regulations, and permits.
- e. “Personal Service Establishments” means hair salons, barbershops, and establishments that provide tanning, tattoo, waxing, threading, electrolysis, cryotherapy, facial and other skin services, massage, and nail technician services.
- f. “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.
- g. “Religious Facilities” means Churches, synagogues, mosques, temples, and other similar religious facilities of any faith.
- h. “Social gatherings” means a gathering of persons from more than one household. It includes parties, receptions, parades, festivals, conventions, fundraisers, community, recreational, leisure, and non-professional sports gatherings and events.

2. Face Coverings.

- a. *Requirement to Wear Face Coverings.*
 - i. All persons in the County over the age of two (2) years old must wear face coverings:

- 32 1. pursuant to State Executive Order [21-03-09-01](#) paragraphs IV.a.i.1
33 – IV.a.ii;
34 2. at all times in a foodservice establishment unless actively engaged
35 in eating or drinking; and
36 3. when actively engaged in sports – except as recommended by the
37 [American Academy of Pediatrics](#).
- 38 b. Exceptions. Paragraph 2.a. does not require persons to wear Face Coverings:
39 i. Pursuant to State Executive Order 21-03-09-01 paragraph IV.b.
- 40 3. General Operating Requirements.
- 41 a. Unless expressly stated to the contrary, all businesses, organizations,
42 establishments, and facilities that are permitted to operate under this Order shall:
43 i. require strict adherence to social distancing of greater than 6 feet between:
44 1. employees and customers; and
45 2. individuals or groups of individuals from different households;
46 ii. utilize markings and signage to guide employees and customers;
47 iii. provide employees with guidance and training to reflect updated Centers for
48 Disease Control and Prevention (“CDC”) guidance for their workplace;
49 iv. use CDC and Environmental Protection Agency (“EPA”) approved
50 disinfectants to clean spaces daily; and
51 v. require employees to wash their hands hourly.
- 52 b. All businesses, organizations, establishments, and facilities that are permitted to
53 open shall post signage indicating that they are in compliance with all provisions
54 of paragraph 3.a of this Order.
- 55 4. Letters of Approval.
- 56 a. Requests for a Letter of Approval must be submitted a minimum of 5 business days
57 before the scheduled event. Failure to submit a timely request will result in an
58 automatic denial of the Letter of Approval.
- 59 b. Failure to obtain a Letter of Approval prior to proceeding with an event will be
60 considered to be a violation of this Order and could subject the requestor, organizer,
61 and venue to the appropriate fines and sanctions.

- 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 expressly stated in another paragraph of this Order:
- i. Outdoor gatherings of more than 50 people are prohibited.
 - ii. Indoor gatherings of more than 25 people are prohibited.
 - iii. The size of the location and venue of any gathering must accommodate applicable social distancing for the number of attendees.
 - iv. 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 that May Open.

a. *Foodservice Establishments.*

- i. Total number of persons permitted in the indoor dining portion of the foodservice establishment shall not exceed 25% of the maximum occupancy.
- ii. Outdoor dining at a foodservice establishment must follow [MDH Order No 2021-03-09-01](#) paragraph 2.A.
- iii. May resume buffet service pursuant to [MDH Order No 2021-03-09-01](#).
- iv. Must 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).
- v. Must maintain a daily record of the date, time, name and contact information for at least one person for each dining party and maintain the daily record for at least 30 days, to assist with contact tracing: date;
- vi. 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

93 3. failure to wear Face Coverings or maintain social distancing may
94 result in their being refused service and found to be in violation of
95 this order.

96 b. *Cigar Bars/Hookah Bars/Vape Shops.* May open solely to sell retail goods.
97 Smoking on site is strictly prohibited.

98 c. *Malls.*

99 i. Shopping centers with one or more enclosed pedestrian concourses may
100 maintain pedestrian concourses and other interior common areas open, but
101 solely to the extent necessary for the general public to enter and exit retail
102 establishments.

103 ii. Food courts located inside indoor malls shall follow paragraph 6.a.

104 iii. Congregating in any indoor area outside of retail stores is prohibited.

105 iv. Malls shall remove tables, chairs, benches, or any other items which could
106 encourage congregating from indoor areas outside of retail stores.

107 d. *Religious Facilities.*

108 i. The total number of persons permitted in a religious facility may not exceed
109 50% of the facility's maximum occupancy.

110 ii. Occupancy numbers shall include faith leaders, volunteers, and
111 congregants.

112 iii. Must follow spacing, screening, cleaning, and music guidelines as stated in
113 the County's [Religious Facilities Reopening](#) page.

114 e. *Sports.*

115 i. Sports are categorized by level of risk pursuant to the [Maryland Sports](#)
116 [Commission Return to Play Report](#) with the following exceptions:

117 1. solo kayaking/canoeing is considered to be low risk;

118 2. tandem kayaking/canoeing is considered to be low risk if
119 participants are from the same household.

120 ii. Rented sport equipment must be thoroughly cleaned and disinfected
121 pursuant to CDC guidelines using EPA approved cleaners and disinfectants
122 between usage.

- 123 iii. A Letter of Approval must be obtained before any tournaments,
124 championships, or events are held in Montgomery County.
- 125 iv. Sports played outside must follow outdoor gathering guidelines and the total
126 number of people present is limited to 50. This includes staff, coaches,
127 players, and any parents, guardians, or immediate family.
- 128 v. Sports played inside must follow the indoor gathering guidelines and the
129 total number of people present is limited to 25. This includes staff, coaches,
130 players, and any parents, guardians, or immediate family.
- 131 vi. Play and games with teams from outside of Maryland, Virginia, or the
132 District of Columbia is prohibited.
- 133 vii. Sports may not open to the general public or spectators. Parents, guardians,
134 and immediate family of players may spectate provided they maintain the
135 appropriate social distancing of greater than 6 feet between non-family
136 members and the total number of individuals present does not exceed the
137 applicable gathering size limit.
- 138 viii. Low risk and medium risk sports may engage in practice, scrimmage,
139 games, matches, and competition.
- 140 ix. High risk sports:
 - 141 1. may only engage in no-contact skills-building and drills; and
 - 142 2. may not engage in scrimmages, games, matches, and competitions.

143 7. Businesses that may open at 25% Maximum Occupancy.

144 a. *Fitness Centers.*

- 145 i. Fitness Centers that provide sport-specific training for high-risk sports as
146 defined in [Maryland Sports Commission Return to Play Report](#) must follow
147 the restrictions in paragraph 6.e above.

148 b. *Bowling Alleys.*

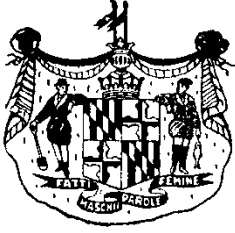
- 149 i. all equipment (balls, shoes, etc.) and spaces (lanes, tables, seats) must be
150 cleaned between each person(s) or group's use with CDC and EPA
151 approved cleaners; and
- 152 ii. any foodservice establishment located within the bowling alley must follow
153 paragraph 6 of this Order.

- 154 c. *Escape Rooms.*
- 155 i. Only private games of a maximum of 6 people all permitted.
- 156 ii. All games are by appointment only and must be staggered so as to prevent
- 157 patrons from interacting with others outside of their group.
- 158 iii. Before and after each game, all items in game rooms and items provided to
- 159 patrons (including but not limited to lock, props, and any touchable
- 160 surfaces) must be thoroughly cleaned using CDC and EPA approved
- 161 disinfectants.
- 162 d. *Museums and Art Galleries.*
- 163 i. Exhibits requiring contact (for example “please touch” exhibits or other
- 164 interactive displays) must remain closed.
- 165 e. *Personal Services.*
- 166 i. Staff are required to wear gloves, and any other Personal Protective
- 167 Equipment as appropriate to their workplace and provided service.
- 168 f. *Pools.*
- 169 i. Must strictly comply with any guidance issued by DHHS.
- 170 g. *Retail Establishments.*
- 171 i. Employees must use any additional Personal Protective Equipment as
- 172 appropriate to their workplace.
- 173 h. *Recreation Centers.*
- 174 8. Other Businesses, Organizations, Establishments, and Facilities that may open on March
- 175 26, 2021 at 25% capacity provided they do not sell or permit food for consumption at the
- 176 facility.
- 177 a. *Amusement parks.* Including stand-alone types, such as, but not limited to merry-
- 178 go-rounds and roller coasters.
- 179 b. *Bingo halls.*
- 180 c. *Go-kart tracks.*
- 181 d. *Roller skating rinks.*
- 182 e. *Social Clubs.*

- 183 f. *Theaters*. This Order controls the occupancy and use of theatres in Montgomery
184 County at which live performances occur or motion pictures are shown
185 (“Theaters”).
- 186 g. *Trampoline Parks*.
- 187 h. Any other establishment not listed above that is subject to the admission and
188 amusement tax under Title 4 of the Tax-General Article of the Maryland Code.
- 189 9. Capacity Limits on March 26, 2021. The 25% capacity limits imposed for facilities in
190 paragraphs 6a and 7 above are raised to 50% of capacity on March 26, 2021.
- 191 10. Minimal Operations. Staff and owners may continue to be on-site at any business,
192 organization, establishment, or facility that is required to be closed pursuant to this Order
193 only for the following purposes:
- 194 i. Facilitating remote working (a/k/a/ telework) by other staff;
- 195 j. Maintaining essential property;
- 196 k. Preventing loss of, or damage to property, including without limitation, preventing
197 spoilage of perishable inventory;
- 198 l. Performing essential administrative functions, including without limitation, picking
199 up mail and processing payroll; and
- 200 m. Caring for live animals.
- 201 11. This Order must be enforced by any County department or agency that has authority over
202 the subject matter of any particular provision and the Montgomery County Police
203 Department.
- 204 12. Applicability. This regulation applies Countywide.
- 205 13. Severability. If the application of this regulation or any part of it to any facts or
206 circumstances is held invalid, the rest of the regulation and its application to all other facts
207 and circumstances is intended to remain in effect.
- 208 14. Effective Date. This regulation takes effect on March 12, 2021 at 5 p.m.

This is a correct copy of Council action.

Selena Mendy Singleton, Esq., Clerk of the Council



The State of Maryland

Executive Department

ORDER OF THE GOVERNOR OF THE STATE OF MARYLAND

NUMBER 21-03-09-01

AMENDING AND RESTATING THE ORDER OF FEBRUARY 23, 2021, REGULATING CERTAIN BUSINESSES AND FACILITIES AND GENERALLY REQUIRING USE OF FACE COVERINGS

- WHEREAS, A state of emergency and catastrophic health emergency was proclaimed on March 5, 2020, and renewed on March 17, April 10, May 6, June 3, July 1, July 31, August 10, September 8, October 6, October 29, November 25, December 23, 2020, January 21, and February 19, 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, COVID-19, a respiratory disease that spreads easily from person to person and may result in serious illness or death, is a public health catastrophe and has been confirmed throughout Maryland;
- WHEREAS, to reduce the spread of COVID-19, the U.S. Centers for Disease Control and Prevention (“CDC”) and the Maryland Department of Health (“MDH”) recommend social distancing in gatherings;
- WHEREAS, the currently known and available scientific evidence and best practices support limitations on large gatherings and 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 the novel coronavirus in Maryland, and to protect and save lives, it is necessary and reasonable that individuals in the state refrain from congregating;
- WHEREAS, to protect the public health, welfare, and safety, prevent the transmission of the novel coronavirus, control the spread of COVID-19, and save lives, it is necessary to control and direct the movement of individuals in Maryland, including those on the public streets;
- WHEREAS, it is further necessary to control and direct in Maryland the occupancy and use of buildings and premises, as well as places of amusement and assembly;

WHEREAS, the Coronavirus Recovery Team continues to advise on related public health and emergency management decisions;

WHEREAS, the State has implemented measures to reduce community transmission rates of COVID-19;

WHEREAS, the State is continuously expanding COVID-19 laboratory testing capacity and locations throughout Maryland, and has increased its disease-investigation capabilities by implementing operations to trace the contacts of up to 1,000 new cases per day;

WHEREAS, the State has carefully monitored hospital capacity, and has worked with hospitals to ensure their surge capacity can accommodate Marylanders who may become ill;

WHEREAS, the State is procuring necessary protective equipment to safeguard critical facilities and staff; and

WHEREAS, the Coronavirus Recovery Team has advised that widespread use of Face Coverings is likely to help control the spread of COVID-19;

NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, INCLUDING BUT NOT LIMITED TO TITLE 14 OF THE PUBLIC SAFETY ARTICLE, AND IN AN EFFORT TO CONTROL AND PREVENT THE SPREAD OF COVID-19 WITHIN THE STATE, DO HEREBY ORDER:

I. Administrative Provisions.

- a. The Order of the Governor of the State of Maryland, dated March 12, 2020, entitled “Prohibiting Large Gatherings and Events and Closing Senior Centers,” as amended and restated on March 16, 2020, and further amended and restated on March 19, 2020 by Order Number 20-03-19-01, and further amended and restated on March 23, 2020 by Order Number 20-03-23-01, and further amended and restated on March 30, 2020 by Order Number 20-03-30-01, and further amended and restated on May 6, 2020 by Order Number 20-05-06-01, and further amended and restated on May 13, 2020 by Order Number 20-05-13-01, and further amended and restated on May 27, 2020 by Order Number 20-05-27-01, further amended and restated on June 3, 2020 by Order Number 20-06-03-01, further amended and restated on June 10, 2020 by Order Number 20-06-10-01, further amended and restated on July 29, 2020 by Order Number 20-07-29-01, further amended and restated on August 3, 2020 by Order Number 20-08-03-01, further amended and restated on September 1, 2020 by Order Number 20-09-01-01, and further amended and restated on September 18, 2020 by Order Number 20-09-18-01, further amended and restated on September 28, 2020 by Order Number 20-09-28-01, further amended and restated on October 16, 2020 by Order Number 20-10-16-01, and further amended and restated on November 10, 2020 by Order Number 20-11-10-01, and further amended and restated on November 17, 2020 by Order Number 20-11-17-01, and further amended and restated on January 28,

2021 by Order Number 21-01-28-01, and further amended and restated on February 23, 2021 by Order Number 21-02-23-01, is further amended and restated in its entirety as set forth herein.

- b. The Secretary of Health is hereby authorized to issue directives under this Order (“Secretary’s Directives”), as the Secretary of Health deems necessary to monitor, treat, prevent, reduce the spread of, and suppress COVID-19:
 - i. in relation to any activity occurring, or any business, organization, establishment, or facility operating in Maryland, which directives may consist of binding requirements and/or non-binding recommendations, and may include, without limitation, requirements pertaining to physical distancing, cleaning, disinfection, COVID-19 symptom screening, restrooms and other shared facilities, concessions, and/or ingress, egress, and movement of persons; and/or
 - ii. requiring individuals to remain indoors or to refrain from congregating, as necessary and reasonable to save lives or prevent exposure to COVID-19.
- c. Intentionally reserved.
- d. Subject to paragraph I.e below, if a political subdivision determines that doing so is necessary and reasonable to save lives or prevent exposure to COVID-19, the political subdivision is hereby authorized to issue orders that are more restrictive than this Order (“Local Orders”):
 - i. requiring any businesses, organizations, establishments, or facilities (except schools) to close or modify their operations; and/or
 - ii. requiring individuals to remain indoors or to refrain from congregating.
- e. Paragraph I.d above shall cease to be effective at 5:00 p.m. on March 12, 2021, at which time all Local Orders issued pursuant to paragraph I.d above shall become null and void.

II. Definitions. As used herein, the following terms have the following meaning:

- a. “Bars and Restaurants” means restaurants, bars, nightclubs, and other similar establishments that sell and/or serve food or beverages for consumption on-premises in Maryland.
- b. “Convention and Banquet Facilities” means convention facilities, conference facilities, banquet and catering facilities, community halls, and Social Clubs, including without limitation, hotel ballrooms.
- c. “Face Covering” means a covering that fully covers a person’s nose and mouth and is secured to the person’s head, including without limitation, scarves, bandanas, and plastic full-face shields.

- d. “Facility” means any Religious Facility, Retail Establishment, Foodservice Establishment, Fitness Center, Gaming Facility, Racing Facility, Indoor Recreation Establishment, Personal Services Establishment, Indoor Venue, or Outdoor Venue.
- e. “Fitness Center” means a fitness center, health club, health spa, gym, aquatic center, or self-defense school in Maryland.
- f. “Foodservice Establishment” means, interchangeably and collectively, (a) Bars and Restaurants; and (b) Convention and Banquet Facilities at which food or drink is served.
- g. “Gaming Facility” means each of (i) MGM National Harbor; (ii) Live! Casino & Hotel; (iii) Horseshoe Casino Baltimore; (iv) Hollywood Casino Perryville; (v) Ocean Downs Casino; (vi) Rocky Gap Casino Resort; and (vii) all simulcast betting facilities in Maryland, to the extent not otherwise included in the preceding clauses (i)-(vi).
- h. “Indoor Area” has the meaning provided in COMAR 10.19.04.02.B(9).
- i. “Indoor Recreation Establishment” means the following in Maryland: (i) bingo halls; (ii) bowling alleys; (iii) pool halls; (iv) roller and ice skating rinks; (v) Social Clubs; or (vi) Indoor Areas of any other establishments that are subject to the admission and amusement tax under Title 4 of the Tax-General Article of the Maryland Code.
- j. “Indoor Venue” means any indoor venue in Maryland at which live performances occur, motion pictures are shown, or sporting events occur (including, without limitation, major league, professional, minor league, semi-professional, amateur, recreational, motor sports, and collegiate sporting events).
- k. “Maximum Occupancy” means (i) the maximum occupancy load of a Facility under the applicable fire code, as set forth on a certificate issued for the Facility by a local fire code official; or (ii) if no such certificate has been issued for the Facility by the local fire code official, the maximum occupancy of the Facility pursuant to applicable laws, regulations, and permits.
- l. “Outdoor Venue” means any outdoor venue in Maryland at which (i) live performances occur, motion pictures are shown, or sporting events occur (including, without limitation, major league, professional, minor league, semi-professional, amateur, recreational, motor sports, and collegiate sporting events), and (ii) entry is limited to ticketed customers; *provided, however*, that the term “Outdoor Venue” does not include golf courses and driving ranges, outdoor archery and shooting ranges, marinas and watercraft rental businesses, campgrounds, horse boarding and riding facilities, drive-in movie theaters, outdoor swimming pools, outdoor day camps, amusement parks, tour boats, miniature golf establishments, and go-kart tracks.

- m. “Personal Services Establishment” means the following in Maryland: (i) beauty salons; (ii) barber shops; (iii) tattoo parlors; (iv) tanning salons; (v) massage parlors; or (vi) establishments that provide esthetic services or nail technician services (as described in Title 5 of the Business Occupations Article of the Maryland Code).
- n. “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, transit services provided by any other unit of the State or any political subdivision, and all related stations and platforms. Examples of Public Transportation include, but are not limited to MTA bus service, MARC train service, Light Rail train service, MTA Metro subway service, and Mobility and Paratransit services.
- o. “Racing Facility” means each of (i) Laurel Park; (ii) Pimlico Race Course; (iii) Timonium Race Course; (iv) Fair Hill Races; (v) Rosecroft Raceway; (vi) Ocean Downs.
- p. “Religious Facility” means a church, synagogue, mosque, temple, or other similar religious facility of any faith in Maryland.
- q. “Retail Establishment” means a retail business, establishment, organization, or facility in Maryland.
- r. “School” means a public or private elementary or secondary school.
- s. “School Bus” means a conveyance used to transport students to or from a School.
- t. “Social Club” means any social and fraternal club in Maryland (including without limitation, American Legion posts, VFW posts, and Elks Clubs).

III. Occupancy and Operating Requirements.

a. Occupancy Limits Lifted.

- i. Until 5:00 p.m. on March 12, 2021, the total number of persons permitted in each of the following Facilities at any one time shall not exceed 50% of that Facility’s Maximum Occupancy:
 - 1. Religious Facilities;
 - 2. Retail Establishments;
 - 3. Personal Services Establishments;
 - 4. Indoor Recreation Establishments;
 - 5. Bars and Restaurants;
 - 6. Fitness Centers;
 - 7. Gaming Facilities; and
 - 8. Racing Facilities.

- ii. Paragraph III.a.i shall cease to be effective at 5:00 p.m. on March 12, 2021.

- b. 50% Occupancy Limit. The total number of persons permitted in each of the following Facilities at any one time shall not exceed 50% of that Facility's Maximum Occupancy:
 - i. Convention and Banquet Facilities;
 - ii. Indoor Venues; and
 - iii. Outdoor Venues.
- c. Senior Centers. All senior citizen activities centers (as defined in Section 10-501(i) of the Human Services Article of the Maryland Code) shall remain closed.
- d. Certain Operating Requirements.
 - i. Foodservice Establishments shall not serve customers who are not seated.
 - ii. All persons in Maryland shall comply with:
 - 1. applicable Secretary's Directives; and
 - 2. orders issued by the health officer for the county in which the business, organization, establishment, or facility is located (or, in the case of a business, organization, establishment, or facility located in Baltimore City, the Commissioner of Health for Baltimore City) pursuant to the Order of the Governor of the State of Maryland Number 20-04-05-02, dated April 5, 2020, entitled "Delegating Authority to Local Officials to Control and Close Unsafe Facilities", as it may be amended from time to time.

IV. Face Coverings.

- a. Requirement to Wear Face Coverings.
 - i. Except as provided in paragraph IV.b, all persons in Maryland over the age of five (5) years old are required to wear a Face Covering when they are:
 - 1. in or on any Public Transportation or School Bus;
 - 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, the Indoor Areas of Racing Facilities, Indoor Recreation Establishments, Personal Services Establishments, and Indoor Venues;
 - 3. at any Outdoor Venue;
 - 4. outdoors at any location other than an Outdoor Venue, and are unable to consistently maintain at least six feet of distance from individuals who are not members of their household;

5. obtaining healthcare services, including without limitation, in offices of physicians and dentists, hospitals, pharmacies, and laboratories;
 6. 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; and
 7. indoors in any portion of a School where interaction with others is likely, including without limitation, classrooms, hallways, cafeterias, auditoriums, and gymnasiums.
- 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).
- b. Exceptions. Paragraph IV.a.i 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 consuming food or beverages;
 - 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. 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; or
 - viii. to the extent it is necessary to observe the person's entire face to verify such person's identity for bona fide security purposes.

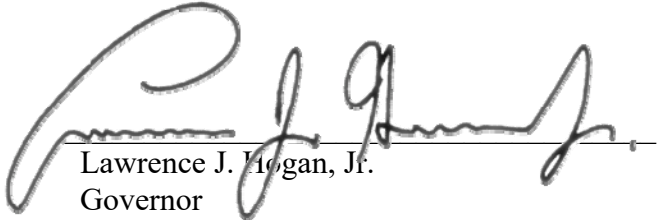
V. General Provisions.

- a. Each law enforcement officer of the State or a political subdivision shall execute

and enforce this Order and any Local Order.

- b. A person who knowingly and willfully violates this Order or any Local 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.
- c. This Order remains effective until after termination of the state of emergency and the proclamation of the catastrophic health emergency has been rescinded, or until rescinded, superseded, amended, or revised by additional orders.
- d. The effect of any statute, rule, or regulation of an agency of the State or a political subdivision inconsistent with this Order is hereby suspended to the extent of the inconsistency.
- e. The underlined paragraph headings in this Order are for convenience of reference only and shall not affect the interpretation of this Order.
- f. If any provision of this 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 Order are severable.

ISSUED UNDER MY HAND THIS 9TH DAY OF MARCH, 2021, AND
EFFECTIVE IMMEDIATELY.



Lawrence J. Hogan, Jr.
Governor