



**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 3B & 3C

April 20, 2021

**Introduction/Public  
Hearing/Action**

## SUBJECT

Resolution to adopt a Fourth Amended Board of Health Regulation to prevent the spread of COVID-19 in the County.

Lead Sponsors: Council President Hucker and Council Vice President Alborno

## 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 add guidance for school graduations in the current Local Order.

## DESCRIPTION/ISSUE

The Council sitting as the Board of Health, would introduce a resolution to adopt a Fourth Amended 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. This regulation, if adopted, would add guidance for school graduation ceremonies in the County.

## SUMMARY OF KEY DISCUSSION POINTS

### This report contains:

Staff Report

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Proposed Fourth Board of Health Regulation (showing changes)

©1

Proposed Fourth Board of Health Regulation (Clean)

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**M E M O R A N D U M**

April 16, 2021

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

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

PURPOSE: Introduction/Public Hearing/Action – Council roll call vote expected

The Council, sitting as the Board of Health, is tentatively scheduled to introduce, hold a public hearing, and act on a Fourth Amended Board of Health Regulation to Prevent the Spread of COVID-19 in the County on April 20, 2021.

**Background**

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, February 19, 2021, and on March 18, 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. 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, has 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. § 3-202(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, the Council, sitting as the Board of Health, adopted a Board of Health Regulation in Resolution No. 19-760 on March 12, 2021. The Board of Health Regulation adopted in Resolution No. 19-760 loosened some of the local restrictions then in place. On March 19, 2021, the Council, sitting as the Board of Health, adopted the First Amended Board of Health Regulation updating the restrictions on sports events in Resolution No. 19-768. On March 26, 2021, the Council, sitting as the Board of Health, adopted the Second Amended Board of Health Regulation updating the restrictions on spectators at sports events in Resolution No. 19-778. On April 13, 2021, the Council, sitting as the Board of Health, adopted the Third Amended Board of Health Regulation adding guidance for the operation of summer camps in Resolution No. 19-790. The Resolution would adopt a Fourth Amended Board of Health Regulation adding guidance for school graduation ceremonies.

### **The First Amended Board of Health Regulation**

The First Amended Board of Health Regulation adopted on March 19, 2021 updated the guidance for sports. All organized sports played indoors or outdoors must obtain a COVID Protocol Plan approved by the Health Officer or the Health Officer's designee. The Plan must have a plan for:

1. contact tracing with an attendance tracking sheet that must be completed for all activities conducted;
2. requiring that face coverings be worn per guidelines from the American Academy of Pediatrics;
3. social distancing with at least 6 feet between all participants to the extent possible; and
4. requiring the use of a student attestation form or COVID-19 Athlete/Coach Monitoring Form at all activities conducted.

An organized youth sports league that was approved to operate under a prior Board of Health Regulation and was not classified as a high risk sport was not required to obtain a new COVID Protocol Plan approved for any event that complies with the gathering limits and restrictions of the prior approval.

Sports played outside of an organized league must follow social gathering guidelines (50 people maximum for outdoor sports and 25 people maximum for indoor sports). All persons must also use a face covering whenever social distancing is not possible. Although the First Amended Board of Health Regulation permitted organized sports to resume in the County, it also prohibited spectators. At the time, the Board of Health made it clear that these restrictions would be reevaluated after additional data was obtained.

### **Second Amended Board of Health Regulation**

The Second Amended Board of Health Regulation permitted spectators at a sports events with the following restrictions:

Two spectators per participating athlete up to a maximum of 50 spectators may be permitted at a sports event if:

1. the site has a barrier to delineate the area for spectators from the area for the participating athletes and coaches;
2. the area for the spectators is large enough to provide for social distancing between all spectators from different households; and
3. all spectators wear face coverings and practice social distancing of at least 6 feet.

The Health Officer or the Officer's designee was authorized to approve a COVID Protocol Plan that includes more than 50 spectators for an event if the Officer finds that the Plan provides for reasonable safety for all participants.

### **Third Amended Board of Health Regulation**

The Third Amended Board of Health Regulation adopted on April 13 added guidance on summer camps. This guidance provides that:

1. Only campers from Maryland, Virginia, and DC would be permitted to attend;
2. Camps must separate participants into groups of 25 for indoor activities and 50 for outdoor activities;
3. Members from a group would not be permitted to mix with members of a different group at the camp;
4. Each camp would be required to have a COVID Protocol Plan approved by the Health Officer or the Health Officer's designee;
5. The Plan would be required to include strategies for social distancing and infection control strategies;
6. A participant who tests positive or who is in close contact with someone who has tested positive would be sent home or remain in quarantine;

7. Sports activities would be required to follow the rules for youth sports;
8. Additional requirements for a residential camp would include a cap of 25 persons in a sleeping area with social distancing and infection control strategies; and
9. Members of each sleeping group must stay with their group for the entire camp session.

#### **Fourth Amended Board of Health Regulation**

The Fourth Amended Board of Health Regulation, if adopted, would add guidance for school graduation ceremonies. The guidance would include the following infectious disease controls:

1. the total number of persons present at an outdoor graduation ceremony must be limited to 50% of the outdoor venue's maximum occupancy;
2. if an outdoor venue does not have a formal certificate of occupancy, 40 square feet per person must be used to calculate the occupancy limit;
3. the total number of persons present at an indoor graduation ceremony is limited to 25% of the maximum occupancy or 250 people, whichever is smaller;
4. a school that plans an indoor graduation ceremony must obtain a Letter of Approval for their plan showing how it would meet the general requirements of the Regulation;
5. a record of everyone attending the graduation must be kept for 30 days to enable contact tracing;
6. the school must identify a point of contact for an attendee to notify if they test positive for COVID-19 within 2 weeks after the event, and the point of contact must notify DHHS within 1 business day of notice of a positive test;
7. no more than 10 persons can be on the stage at one time;
8. the ceremony must last no more than 2 hours;
9. members of the audience from different households must remain at least 6 feet apart at all times;
10. signage explaining the infectious control requirements must be posted at the venue;
11. no group or staged photography;
12. no congregating or gathering in common areas both inside and outside of the venue before or after the ceremony;
13. a masked speaker must be at least 12 feet from the audience and an unmasked speaker must be at least 18 feet from the audience;
14. diplomas must be distributed without handshakes or physical contact; and
15. no food or beverage concessions at the ceremony.

#### **Future Regulations**

The COVID-19 public health emergency has been a world-wide pandemic for more than one year. The restrictions necessary to limit the community spread of COVID-19 have changed over the past year as the rate of infections, hospitalizations, and deaths has changed. 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 of the virus.

As the percentage of County residents are vaccinated against this disease, the community spread should lessen if we continue to practice limiting large gatherings, using face coverings, and socially distancing. The Board of Health and the County Health Officer are committed to continuing to review these regulations on a regular basis with the goal of loosening restrictions as soon as the science supports it.

This packet contains:

	<u>Circle #</u>
Proposed Fourth Amended Board of Health Regulation showing changes	1
Proposed Fourth Amended Board of Health Regulation (Clean)	18

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Resolution No.: \_\_\_\_\_  
Introduced: \_\_\_\_\_  
Adopted: \_\_\_\_\_

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

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Lead Sponsors: Council President Hucker and Council Vice President Alborno

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**Subject:** Fourth Amended 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 31, 2020, August 10, 2020, September 8, 2020, October 6, 2020, October 29, 2020, November 25, 2020, December 23, 2020, January 21, 2021, February 19, 2021, and on March 18, 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 has 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 [19.1] 26.2% 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 [1435] 1443 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, Director of the National Institute of Allergy & Infectious Diseases at the NIH and Chief Medical Advisor for COVID-19 to President Biden, Dr. 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 officials 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. The Council, sitting as the Board of Health, adopted a Board of Health Regulation in Resolution No. 19-760 on March 12, 2021. The Council adopted the First Amended Regulation on March 19, 2021 in Resolution No. 19-768. The Council adopted the Second Amended Regulation on March 26, 2021 in Resolution No. 19-778. The Council Adopted the Third Amended Board of Health Regulation on April 13, 2021 in Resolution No. 19-790. This Board of Health Regulation would amend Resolution No. [19-778] 19-790.
20. 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.
21. 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 amending the regulation adopted by Resolution No. [19-778] 19-790:

**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. *“Graduation”* means any ceremony conferring degrees or diplomas, such as at a college or school.
- e. *“Maximum Occupancy”* means the maximum occupancy load of a facility under the applicable fire code or pursuant to applicable laws, regulations, and permits. If a facility is not rated for maximum occupancy, a person per square foot option must be used to calculate maximum occupancy.
- f. *“Outdoor Graduation”* means a graduation held in an Outdoor Venue.
- g. *“Outdoor Venue”* means any outdoor venue in the County at which:
- (i) live performances occur, motion pictures are shown, or sporting events occur (including, without limitation, major league, professional, minor league, semiprofessional, amateur, recreational, motor sports, and collegiate sporting events); and
- (ii) entry is limited to ticketed customers.
- “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.
- [e.] h. *“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.] i. “*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.] j. “*Religious Facilities*” means Churches, synagogues, mosques, temples, and other similar religious facilities of any faith.

[h.] k. “*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:
  1. pursuant to State Executive Order [21-03-09-01](#) paragraphs IV.a.i.1 – IV.a.ii;
  2. at all times in a foodservice establishment unless actively engaged in eating or drinking; and
  3. when actively engaged in sports – except as recommended by the [American Academy of Pediatrics](#).

### b. *Exceptions.* Paragraph 2.a. does not require persons to wear Face Coverings:

- i. Pursuant to State Executive Order 21-03-09-01 paragraph IV.b.

## 3. General Operating Requirements.

- a. Unless expressly stated to the contrary, all businesses, organizations, establishments, and facilities that are permitted to operate under this Order shall:
  - i. require strict adherence to social distancing of greater than 6 feet between:
    1. employees and customers; and
    2. individuals or groups of individuals from different households;
  - ii. utilize markings and signage to guide employees and customers;

- iii. provide employees with guidance and training to reflect updated Centers for Disease Control and Prevention (“CDC”) guidance for their workplace;
  - iv. use CDC and Environmental Protection Agency (“EPA”) approved disinfectants to clean spaces daily; and
  - v. require employees to wash their hands hourly.
- b. 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.

#### **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.
- 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 50% of the maximum occupancy.

- 94 ii. Outdoor dining at a foodservice establishment must follow [MDH Order No](#)  
95 [2021-03-09-01](#) paragraph 2.A.
- 96 iii. May resume buffet service pursuant to [MDH Order No 2021-03-09-01](#).
- 97 iv. Must require all customers to wear Face Coverings unless actively engaged  
98 in the act of eating or drinking (e.g. while seated at the table and talking but  
99 not eating or drinking).
- 100 v. Must maintain a daily record of the date, time, name and contact  
101 information for at least one person for each dining party and maintain the  
102 daily record for at least 30 days, to assist with contact tracing: date;
- 103 vi. Must post signage at each outdoor dining entrance advising customers and  
104 visitors that:
- 105 1. they must comply with the Face Covering requirements at all times  
106 when they are not actively eating or drinking;
- 107 2. they must maintain social distancing of at least 6 feet when waiting  
108 to be seated; and
- 109 3. failure to wear Face Coverings or maintain social distancing may  
110 result in their being refused service and found to be in violation of  
111 this order.
- 112 b. *Cigar Bars/Hookah Bars/Vape Shops.* May open solely to sell retail goods.  
113 Smoking on site is strictly prohibited.
- 114 c. *Malls.*
- 115 i. Shopping centers with one or more enclosed pedestrian concourses may  
116 maintain pedestrian concourses and other interior common areas open, but  
117 solely to the extent necessary for the general public to enter and exit retail  
118 establishments.
- 119 ii. Food courts located inside indoor malls shall follow paragraph 6.a.
- 120 iii. Congregating in any indoor area outside of retail stores is prohibited.
- 121 iv. Malls shall remove tables, chairs, benches, or any other items which could  
122 encourage congregating from indoor areas outside of retail stores.
- 123 d. *Religious Facilities.*

- 124 i. The total number of persons permitted in a religious facility may not exceed  
125 50% of the facility's maximum occupancy.
- 126 ii. Occupancy numbers shall include faith leaders, volunteers, and  
127 congregants.
- 128 iii. Must follow spacing, screening, cleaning, and music guidelines as stated in  
129 the County's [Religious Facilities Reopening](#) page.
- 130 e. *Sports.*
- 131 i. Except as provided in paragraph 6(e)(vii), all organized youth sports may  
132 be played either indoors or outdoors only after a COVID Protocol Plan is  
133 approved by the County Health Officer or the Officer's designee. The Plan  
134 must align with guidelines by the Centers for Disease Control and  
135 Prevention (CDC), Maryland State Department of Education (MSDE), and  
136 Montgomery County, and include a plan for;
- 137 1. contact tracing with an attendance tracking sheet that must be  
138 completed for all activities conducted;
- 139 2. requiring that face coverings be worn per guidelines from the  
140 American Academy of Pediatrics;
- 141 3. social distancing with at least 6 feet between all participants to the  
142 extent possible; and
- 143 4. requiring the use of a student attestation form or COVID-19  
144 Athlete/Coach Monitoring Form at all activities conducted.
- 145 Although voluntary, regular testing should be part of the COVID Protocol  
146 Plan.
- 147 ii. A Letter of Approval must be obtained before any tournaments,  
148 championships, or events are held in Montgomery County that are expected  
149 to exceed guidelines.
- 150 iii. All organized sports played in the County must comply with the gathering  
151 guidelines described in paragraph 6(e)(i), including limiting the  
152 participating athletes to those listed on the official roster as determined  
153 through the Maryland Public Secondary Schools Athletic Association

(MPSSAA) or the organization's governing body or league, coaches, and up to 12 additional participants acting in an official game capacity.

iv. Sports played outside of an organized league must follow social gathering guidelines and all persons must comply with the State mandate to use a face covering whenever social distancing is not an option. The total number of people present for outdoor sports played outside of an organized league is limited to 50 and the total number of people present for indoor sports played outside of an organized league is limited to 25.

v. Play and games with teams from outside of Maryland, Virginia, or the District of Columbia is prohibited.

vi. Sports may not open to the general public. On or after April 2, 2021, 2 spectators per participating athlete up to a maximum of 50 spectators may be permitted at a sports event if:

1. the site has a barrier to delineate the area for spectators from the area for the participating athletes and coaches;
2. the area for the spectators is large enough to provide for social distancing between all spectators from different households; and
3. all spectators wear face coverings and practice social distancing of at least 6 feet.

The Health Officer or the Officer's designee may approve a COVID Protocol Plan that includes more than 50 spectators for an event if the Officer finds that the Plan provides for reasonable safety for all participants.

vii. An organized youth sports league that was approved to operate under a prior Board of Health Regulation and was not classified as a high risk sport does not need a new COVID Protocol Plan approved for any event that complies with the gathering limits and restrictions of the prior approval.

## **7. Businesses that may open at 50% Maximum Occupancy.**

a. *Fitness Centers.*

i. 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.e above.

b. *Bowling Alleys.*

- i. 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
- ii. any foodservice establishment located within the bowling alley must follow paragraph 6 of this Order.

c. *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 and items provided to patrons (including but not limited to lock, props, and any touchable surfaces) must be thoroughly cleaned using CDC and EPA approved disinfectants.

d. *Museums and Art Galleries.*

- i. Exhibits requiring contact (for example "please touch" exhibits or other interactive displays) must remain closed.

e. *Personal Services.*

- i. Staff are required to wear gloves, and any other Personal Protective Equipment as appropriate to their workplace and provided service.

f. *Pools.*

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

g. *Retail Establishments.*

- i. Employees must use any additional Personal Protective Equipment as appropriate to their workplace.

h. *Recreation Centers.*

**8. Other Businesses, Organizations, Establishments, and Facilities that may open at 25% capacity provided they do not sell or permit food for consumption at the facility.**

- 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. *Roller skating rinks.*
- e. *Social Clubs.*
- f. *Theaters.* This Order controls the occupancy and use of theatres in Montgomery County at which live performances occur or motion pictures are shown (“Theaters”).
- g. *Trampoline Parks.*
- h. 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. Camps.**

- a. *General Requirements.*
  - i. Only campers from Maryland, Virginia, and District of Columbia are permitted to attend youth camps in Montgomery County.
  - ii. Participants must be separated into groups of 25 participants indoors and groups of 50 participants outdoors. Participants include all campers, staff, and any volunteers. Participants must not mix with members of another group in the camp.
  - iii. Must have a COVID Protocol Plan that is approved by the Health Officer or the Health Officer’s designee for daily monitoring of the health and safety of campers and staff which includes:
    - 1. A daily COVID-19 symptom and exposure attestation form to be completed by campers (or their parent/guardian) and staff. These must be maintained in such a manner so as to preserve confidentiality.
    - 2. Excluding staff or campers, pursuant to CDC guidance, who have tested positive for COVID-19, are symptomatic, or who have had a known exposure to a confirmed case of COVID-19.
    - 3. Adopting infection control strategies which include:
      - a. Social distancing;
      - b. Hand hygiene;
      - c. Cough and sneeze hygiene;

- d. Proper use, removal, and washing of cloth face coverings;
- e. Providing policies and education on COVID-19 symptoms and response;
- f. Avoiding the use of items that are not easily cleaned and disinfected;
- g. Ensuring adequate supplies of tissues, hand soap, alcohol-based hand sanitizer, EPA approved cleaning products for COVID-19 disinfection suited for the facility;
- h. Effective cleaning and disinfection of surfaces; and
- i. regularly reviewing and incorporating into the Plan any CDC guidance for youth and summer camps that does not conflict with this Regulation.

b. *Camp Food Service Operations.*

- i. Camp food service operations must ensure there are no shared items such as serving utensils or condiment containers.
- ii. Must ensure physical distancing for campers waiting for food service and while dining.

c. *Youth Camp Programming and Training.*

- i. Field Trips and Camp Transportation.
  - 1. All transportation provided by camps should follow social distancing guidelines for occupants and should prevent mixing of camp groups.
  - 2. Staff and campers must use face coverings during transportation and when in public areas.
  - 3. Clean and disinfect vehicles after each use.
- ii. Sports activities.
  - 1. Limited to groups of 25 participants indoors and groups of 50 participants outdoors. Participants include all campers, staff, and any volunteers. Participants must not mix with participants from another group.
  - 2. Close physical contact during sports activities should be avoided

whenever possible and masks must be worn when actively engaged in sports, except as recommended by the [American Academy of Pediatrics](#).

3. Equipment must be cleaned and disinfected after each use.

d. *Residential Camps.* All residential youth camps must implement the following measures in addition to the measures described above:

i. Each group of campers/staff stays with their sleeping group, do not mix campers or staff among groups for the duration of the session.

1. Maximum capacity for each sleeping area is groups of 25 adults and campers.

2. For bunk beds, if both upper and lower beds are occupied, sleep with the top bunk individual's head above the lower bunk individual's feet.

3. Minimum of 6 feet between each occupied bunk or bed, provide maximum distance between each individual's head.

4. Complete COVID-19 temperature and symptom screening for staff and campers every morning.

ii. Residential camps with a COVID-19 positive or probable case will send all campers/staff in the group to their homes or quarantine in place with additional requirements based on consultation with the local health department.

iii. Clean and disinfect high touch surfaces in bathroom facilities and sleeping quarters daily.

**10. Graduations.** May occur if the following requirements are met:

a. Generally.

i. Persons/groups of guests not of the same household must maintain a minimum of 6 feet of social distance at all times, including during any graduate procession.

ii. All persons present must wear face coverings consistent with paragraph 2 of this Regulation.

- iii. All persons present must be included in the numerical attendance totals. This includes students, faculty, staff, workers, vendors, guests, and speakers.
- iv. Any person with a fever or who is exhibiting symptoms of COVID-19, must not attend a graduation ceremony.
- v. A record of all individuals who attended the graduation must be maintained for at least 30 days to assist with contact tracing. Information collected must include name, date, phone number and email (if available). This information must be provided within 24 hours if requested by MCDHHS if a case of COVID-19 associated with the graduation occurs. Seating charts must also be provided if used.
- vi. The school must post the following signage:
1. At any entrance(s) stating that nobody with a fever or symptoms of COVID-19 is permitted to enter the venue and that individuals must wear a mask or face covering.
  2. Throughout the venue reinforcing social distancing, face covering usage, and hand hygiene policies.
  3. At areas of entry and egress to allow the one-way flow of attendees.
  4. On floors and sidewalks both inside and outside the venue to provide physical guides to ensure individuals remain at least 6 feet apart in queuing areas.
  5. Marking seating arrangements to delineate physically distanced seating.
- vii. Must prohibit congregating or gathering in common areas both inside and outside of the venue before or after the graduation ceremony.
- viii. Prohibit group or staged photography.
- b. Ceremony.
- i. Ceremonies must not exceed 2 hours, but the venue may be open for an hour in advance and after the ceremony to prevent crowding at points of ingress and egress.

- ii. No more than 10 persons must be permitted on the stage at any given time. Persons on the stage must be spaced at least 6 feet apart.
- iii. Only single performers/speakers must be allowed (e.g., no choirs or bands) during the ceremony.
1. A minimum of 12 feet must be maintained from the audience if performers/speakers are masked.
  2. A minimum of 18 feet must be maintained from the audience if performers/speakers are unmasked.
  3. Use of shared objects during the graduation should be minimized (e.g. microphones).
  4. Diplomas must be distributed with no handshake or physical contact.
  5. No food or beverage service is permitted during ceremonies (including concession stands).
  6. If permitted by the venue, guests may bring their own beverages/snacks which may only be consumed while seated.
  7. All guests must be seated and remain in their seats throughout the ceremony.
  8. Any items handed out to guests must be single use or cleaned and disinfected between each guest use (e.g., assisted audio devices).
- c. Communication and Response. Schools must develop a comprehensive plan to communicate measures in place to prevent the spread of COVID-19 with all attendees of the graduation. The plan must:
- i. Identify and address potential language, cultural, and disability barriers in the communication plan.
  - ii. Communicate COVID-19 policies to staff (including vendors), guests and students, (e.g., on school/graduation website, social media sites, prominent signage at entrances and throughout the venue, message screens and public announcements before and during the graduation).
  - iii. If an attendee becomes sick while at the graduation ceremony, the school must have a protocol in place for that individual to immediately leave the

venue. If they are unable to immediately leave (e.g., they need to wait for a ride), there should be a process that allows them to isolate until they are able to leave. People who are sick should go home or to a healthcare facility, depending on the severity of their symptoms. Public transportation should not be used.

iv. Must identify a point of contact that staff or an attendee can notify if they test positive for COVID-19 within the 2 weeks from the date of the graduation and choose to disclose this information.

v. In the event of a positive test result, the COVID-19 Point of Contact must notify the Montgomery County Department of Health and Human Services (240-777-1755) within one business day of the notice and provide them with the name and contact information of the positive case.

vi. Put systems in place to encourage self-reporting.

d. Indoor Graduations.

i. Total number of persons permitted at an indoor graduation is limited to 25% of the maximum occupancy of the space or 250 people, whichever number is smaller (e.g. if the maximum occupancy of the space is 800, only 250 persons must be permitted).

ii. Must obtain a Letter of Approval prior to the graduation by submitting a COVID-19 Graduation Plan which explains how all of the requirements in paragraphs 10(a) – (c) will be implemented. Any requests for increased occupancy should be made at this time.

e. Outdoor Graduations.

i. Total number of persons permitted at an outdoor graduation at any one time must not exceed 50% of the Outdoor Venue's Maximum Occupancy. If an Outdoor Venue does not have a formal Certificate of Occupancy, 40 square feet per person must be used to calculate the occupancy limit.

ii. Schools planning outdoor graduations should put careful thought and planning into a back-up plan in case of inclement weather. Back-up venues must meet all the requirements outlined in this guidance.

f. Recommendations. Although not required, the following are strongly recommended:

i. Holding multiple smaller graduation ceremonies as necessary, so that all graduating students can be accommodated while minimizing crowd sizes.

ii. Holding a virtual graduation or providing a virtual option for persons who either do not wish to or are unable to attend.

iii. Use of pre-assigned/reserved seating is recommended.

iv. Attendance by persons traveling from outside of Maryland, Virginia, and the District of Columbia is strongly discouraged.

[10.] **11. 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.

[11.] **12. Enforcement.** This Order must 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.

[12.] **13. Applicability.** This regulation applies Countywide.

[13.] **14. Severability.** If the application of this regulation or any part of it to any facts or circumstances is held invalid, the rest of the regulation and its application to all other facts and circumstances is intended to remain in effect.

[14.] **15. Effective Date.** This regulation takes effect on April [13] 20, 2021 at 5 p.m.

This is a correct copy of Council action.

Selena Mendy Singleton, Esq., Clerk of the Council

Resolution No.: \_\_\_\_\_  
Introduced: \_\_\_\_\_  
Adopted: \_\_\_\_\_

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

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Lead Sponsors: Council President Hucker and Council Vice President Alborno

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**Subject:** Fourth Amended 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 31, 2020, August 10, 2020, September 8, 2020, October 6, 2020, October 29, 2020, November 25, 2020, December 23, 2020, January 21, 2021, February 19, 2021, and on March 18, 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 has 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 26.2% 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 1443 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, Director of the National Institute of Allergy & Infectious Diseases at the NIH and Chief Medical Advisor for COVID-19 to President Biden, Dr. 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 officials 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. The Council, sitting as the Board of Health, adopted a Board of Health Regulation in Resolution No. 19-760 on March 12, 2021. The Council adopted the First Amended Regulation on March 19, 2021 in Resolution No. 19-768. The Council adopted the Second Amended Regulation on March 26, 2021 in Resolution No. 19-778. The Council Adopted the Third Amended Board of Health Regulation on April 13, 2021 in Resolution No. 19-790. This Board of Health Regulation would amend Resolution No. 19-790.
20. 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.
21. 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 amending the regulation adopted by Resolution No. 19-790:

**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. *“Graduation”* means any ceremony conferring degrees or diplomas, such as at a college or school.
- e. *“Maximum Occupancy”* means the maximum occupancy load of a facility under the applicable fire code or pursuant to applicable laws, regulations, and permits. If a facility is not rated for maximum occupancy, a person per square foot option must be used to calculate maximum occupancy.
- f. *“Outdoor Graduation”* means a graduation held in an Outdoor Venue.
- g. *“Outdoor Venue”* means any outdoor venue in the County at which:
  - (i) live performances occur, motion pictures are shown, or sporting events occur (including, without limitation, major league, professional, minor league, semiprofessional, amateur, recreational, motor sports, and collegiate sporting events); and
  - (ii) entry is limited to ticketed customers.

*“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.
- h. *“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.

- i. “*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.
- j. “*Religious Facilities*” means Churches, synagogues, mosques, temples, and other similar religious facilities of any faith.
- k. “*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:
    - 1. pursuant to State Executive Order [21-03-09-01](#) paragraphs IV.a.i.1 – IV.a.ii;
    - 2. at all times in a foodservice establishment unless actively engaged in eating or drinking; and
    - 3. when actively engaged in sports – except as recommended by the [American Academy of Pediatrics](#).
- b. *Exceptions.* Paragraph 2.a. does not require persons to wear Face Coverings:
  - i. Pursuant to State Executive Order 21-03-09-01 paragraph IV.b.

## **3. General Operating Requirements.**

- a. Unless expressly stated to the contrary, all businesses, organizations, establishments, and facilities that are permitted to operate under this Order shall:
  - i. require strict adherence to social distancing of greater than 6 feet between:
    - 1. employees and customers; and
    - 2. individuals or groups of individuals from different households;
  - ii. utilize markings and signage to guide employees and customers;

- iii. provide employees with guidance and training to reflect updated Centers for Disease Control and Prevention (“CDC”) guidance for their workplace;
  - iv. use CDC and Environmental Protection Agency (“EPA”) approved disinfectants to clean spaces daily; and
  - v. require employees to wash their hands hourly.
- b. 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.

#### **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.
- 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 50% of the maximum occupancy.

- 94 ii. Outdoor dining at a foodservice establishment must follow [MDH Order No](#)  
95 [2021-03-09-01](#) paragraph 2.A.
- 96 iii. May resume buffet service pursuant to [MDH Order No 2021-03-09-01](#).
- 97 iv. Must require all customers to wear Face Coverings unless actively engaged  
98 in the act of eating or drinking (e.g. while seated at the table and talking but  
99 not eating or drinking).
- 100 v. Must maintain a daily record of the date, time, name and contact  
101 information for at least one person for each dining party and maintain the  
102 daily record for at least 30 days, to assist with contact tracing: date;
- 103 vi. Must post signage at each outdoor dining entrance advising customers and  
104 visitors that:
- 105 1. they must comply with the Face Covering requirements at all times  
106 when they are not actively eating or drinking;
- 107 2. they must maintain social distancing of at least 6 feet when waiting  
108 to be seated; and
- 109 3. failure to wear Face Coverings or maintain social distancing may  
110 result in their being refused service and found to be in violation of  
111 this order.
- 112 b. *Cigar Bars/Hookah Bars/Vape Shops.* May open solely to sell retail goods.  
113 Smoking on site is strictly prohibited.
- 114 c. *Malls.*
- 115 i. Shopping centers with one or more enclosed pedestrian concourses may  
116 maintain pedestrian concourses and other interior common areas open, but  
117 solely to the extent necessary for the general public to enter and exit retail  
118 establishments.
- 119 ii. Food courts located inside indoor malls shall follow paragraph 6.a.
- 120 iii. Congregating in any indoor area outside of retail stores is prohibited.
- 121 iv. Malls shall remove tables, chairs, benches, or any other items which could  
122 encourage congregating from indoor areas outside of retail stores.
- 123 d. *Religious Facilities.*
- 124 i. The total number of persons permitted in a religious facility may not exceed  
125 50% of the facility's maximum occupancy.

126 ii. Occupancy numbers shall include faith leaders, volunteers, and  
127 congregants.

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

130 e. *Sports.*

131 i. Except as provided in paragraph 6(e)(vii), all organized youth sports may  
132 be played either indoors or outdoors only after a COVID Protocol Plan is  
133 approved by the County Health Officer or the Officer's designee. The Plan  
134 must align with guidelines by the Centers for Disease Control and  
135 Prevention (CDC), Maryland State Department of Education (MSDE), and  
136 Montgomery County, and include a plan for;

- 137 1. contact tracing with an attendance tracking sheet that must be  
138 completed for all activities conducted;
- 139 2. requiring that face coverings be worn per guidelines from the  
140 American Academy of Pediatrics;
- 141 3. social distancing with at least 6 feet between all participants to the  
142 extent possible; and
- 143 4. requiring the use of a student attestation form or COVID-19  
144 Athlete/Coach Monitoring Form at all activities conducted.

145 Although voluntary, regular testing should be part of the COVID Protocol  
146 Plan.

147 ii. A Letter of Approval must be obtained before any tournaments,  
148 championships, or events are held in Montgomery County that are expected  
149 to exceed guidelines.

150 iii. All organized sports played in the County must comply with the gathering  
151 guidelines described in paragraph 6(e)(i), including limiting the  
152 participating athletes to those listed on the official roster as determined  
153 through the Maryland Public Secondary Schools Athletic Association  
154 (MPSSAA) or the organization's governing body or league, coaches, and  
155 up to 12 additional participants acting in an official game capacity.

156 iv. Sports played outside of an organized league must follow social gathering  
157 guidelines and all persons must comply with the State mandate to use a face

covering whenever social distancing is not an option. The total number of people present for outdoor sports played outside of an organized league is limited to 50 and the total number of people present for indoor sports played outside of an organized league is limited to 25.

v. Play and games with teams from outside of Maryland, Virginia, or the District of Columbia is prohibited.

vi. Sports may not open to the general public. On or after April 2, 2021, 2 spectators per participating athlete up to a maximum of 50 spectators may be permitted at a sports event if:

1. the site has a barrier to delineate the area for spectators from the area for the participating athletes and coaches;
2. the area for the spectators is large enough to provide for social distancing between all spectators from different households; and
3. all spectators wear face coverings and practice social distancing of at least 6 feet.

The Health Officer or the Officer's designee may approve a COVID Protocol Plan that includes more than 50 spectators for an event if the Officer finds that the Plan provides for reasonable safety for all participants.

vii. An organized youth sports league that was approved to operate under a prior Board of Health Regulation and was not classified as a high risk sport does not need a new COVID Protocol Plan approved for any event that complies with the gathering limits and restrictions of the prior approval.

## **7. Businesses that may open at 50% Maximum Occupancy.**

a. *Fitness Centers.*

- i. 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.e above.

b. *Bowling Alleys.*

- i. 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



- 189                   ii.     any foodservice establishment located within the bowling alley must follow  
190                   paragraph 6 of this Order.
- 191       c.     *Escape Rooms.*
- 192                   i.     Only private games of a maximum of 6 people all permitted.
- 193                   ii.    All games are by appointment only and must be staggered so as to prevent  
194                   patrons from interacting with others outside of their group.
- 195                   iii.   Before and after each game, all items in game rooms and items provided to  
196                   patrons (including but not limited to lock, props, and any touchable  
197                   surfaces) must be thoroughly cleaned using CDC and EPA approved  
198                   disinfectants.
- 199       d.     *Museums and Art Galleries.*
- 200                   i.     Exhibits requiring contact (for example “please touch” exhibits or other  
201                   interactive displays) must remain closed.
- 202       e.     *Personal Services.*
- 203                   i.     Staff are required to wear gloves, and any other Personal Protective  
204                   Equipment as appropriate to their workplace and provided service.
- 205       f.     *Pools.*
- 206                   i.     Must strictly comply with any guidance issued by DHHS.
- 207       g.     *Retail Establishments.*
- 208                   i.     Employees must use any additional Personal Protective Equipment as  
209                   appropriate to their workplace.
- 210       h.     *Recreation Centers.*
- 211    **8. Other Businesses, Organizations, Establishments, and Facilities that may open at**  
212    **25% capacity provided they do not sell or permit food for consumption at the facility.**
- 213       a.     *Amusement parks.* Including stand-alone types, such as, but not limited to merry-  
214                   go-rounds and roller coasters.
- 215       b.     *Bingo halls.*
- 216       c.     *Go-kart tracks.*
- 217       d.     *Roller skating rinks.*
- 218       e.     *Social Clubs.*

f. *Theaters*. This Order controls the occupancy and use of theatres in Montgomery County at which live performances occur or motion pictures are shown (“Theaters”).

g. *Trampoline Parks*.

h. 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. Camps.

a. *General Requirements*.

i. Only campers from Maryland, Virginia, and District of Columbia are permitted to attend youth camps in Montgomery County.

ii. Participants must be separated into groups of 25 participants indoors and groups of 50 participants outdoors. Participants include all campers, staff, and any volunteers. Participants must not mix with members of another group in the camp.

iii. Must have a COVID Protocol Plan that is approved by the Health Officer or the Health Officer’s designee for daily monitoring of the health and safety of campers and staff which includes:

1. A daily COVID-19 symptom and exposure attestation form to be completed by campers (or their parent/guardian) and staff. These must be maintained in such a manner so as to preserve confidentiality.

2. Excluding staff or campers, pursuant to CDC guidance, who have tested positive for COVID-19, are symptomatic, or who have had a known exposure to a confirmed case of COVID-19.

3. Adopting infection control strategies which include:

a. Social distancing;

b. Hand hygiene;

c. Cough and sneeze hygiene;

d. Proper use, removal, and washing of cloth face coverings;

e. Providing policies and education on COVID-19 symptoms and response;

f. Avoiding the use of items that are not easily cleaned and

disinfected;

- g. Ensuring adequate supplies of tissues, hand soap, alcohol-based hand sanitizer, EPA approved cleaning products for COVID-19 disinfection suited for the facility;
- h. Effective cleaning and disinfection of surfaces; and
- i. regularly reviewing and incorporating into the Plan any CDC guidance for youth and summer camps that does not conflict with this Regulation.

b. *Camp Food Service Operations.*

- i. Camp food service operations must ensure there are no shared items such as serving utensils or condiment containers.
- ii. Must ensure physical distancing for campers waiting for food service and while dining.

c. *Youth Camp Programming and Training.*

i. Field Trips and Camp Transportation.

- 1. All transportation provided by camps should follow social distancing guidelines for occupants and should prevent mixing of camp groups.
- 2. Staff and campers must use face coverings during transportation and when in public areas.
- 3. Clean and disinfect vehicles after each use.

ii. Sports activities.

- 1. Limited to groups of 25 participants indoors and groups of 50 participants outdoors. Participants include all campers, staff, and any volunteers. Participants must not mix with participants from another group.
- 2. Close physical contact during sports activities should be avoided whenever possible and masks must be worn when actively engaged in sports, except as recommended by the [American Academy of Pediatrics](#).
- 3. Equipment must be cleaned and disinfected after each use.

d. *Residential Camps.* All residential youth camps must implement the following

measures in addition to the measures described above:

- i. Each group of campers/staff stays with their sleeping group, do not mix campers or staff among groups for the duration of the session.
  1. Maximum capacity for each sleeping area is groups of 25 adults and campers.
  2. For bunk beds, if both upper and lower beds are occupied, sleep with the top bunk individual's head above the lower bunk individual's feet.
  3. Minimum of 6 feet between each occupied bunk or bed, provide maximum distance between each individual's head.
  4. Complete COVID-19 temperature and symptom screening for staff and campers every morning.
- ii. Residential camps with a COVID-19 positive or probable case will send all campers/staff in the group to their homes or quarantine in place with additional requirements based on consultation with the local health department.
- iii. Clean and disinfect high touch surfaces in bathroom facilities and sleeping quarters daily.

**10. Graduations.** May occur if the following requirements are met:

a. *Generally.*

- i. Persons/groups of guests not of the same household must maintain a minimum of 6 feet of social distance at all times, including during any graduate procession.
- ii. All persons present must wear face coverings consistent with paragraph 2 of this Regulation.
- iii. All persons present must be included in the numerical attendance totals. This includes students, faculty, staff, workers, vendors, guests, and speakers.
- iv. Any person with a fever or who is exhibiting symptoms of COVID-19, must not attend a graduation ceremony.
- v. A record of all individuals who attended the graduation must be maintained for at least 30 days to assist with contact tracing. Information collected must

include name, date, phone number and email (if available). This information must be provided within 24 hours if requested by MCDHHS if a case of COVID-19 associated with the graduation occurs. Seating charts must also be provided if used.

vi. The school must post the following signage:

1. At any entrance(s) stating that nobody with a fever or symptoms of COVID-19 is permitted to enter the venue and that individuals must wear a mask or face covering.
2. Throughout the venue reinforcing social distancing, face covering usage, and hand hygiene policies.
3. At areas of entry and egress to allow the one-way flow of attendees.
4. On floors and sidewalks both inside and outside the venue to provide physical guides to ensure individuals remain at least 6 feet apart in queuing areas.
5. Marking seating arrangements to delineate physically distanced seating.

vii. Must prohibit congregating or gathering in common areas both inside and outside of the venue before or after the graduation ceremony.

viii. Prohibit group or staged photography.

b. *Ceremony.*

- i. Ceremonies must not exceed 2 hours, but the venue may be open for an hour in advance and after the ceremony to prevent crowding at points of ingress and egress.
- ii. No more than 10 persons must be permitted on the stage at any given time. Persons on the stage must be spaced at least 6 feet apart.
- iii. Only single performers/speakers must be allowed (e.g., no choirs or bands) during the ceremony.
  1. A minimum of 12 feet must be maintained from the audience if performers/speakers are masked.
  2. A minimum of 18 feet must be maintained from the audience if performers/speakers are unmasked.

3. Use of shared objects during the graduation should be minimized (e.g. microphones).
4. Diplomas must be distributed with no handshake or physical contact.
5. No food or beverage service is permitted during ceremonies (including concession stands).
6. If permitted by the venue, guests may bring their own beverages/snacks which may only be consumed while seated.
7. All guests must be seated and remain in their seats throughout the ceremony.
8. Any items handed out to guests must be single use or cleaned and disinfected between each guest use (e.g., assisted audio devices).

c. *Communication and Response.* Schools must develop a comprehensive plan to communicate measures in place to prevent the spread of COVID-19 with all attendees of the graduation. The plan must:

- i. Identify and address potential language, cultural, and disability barriers in the communication plan.
- ii. Communicate COVID-19 policies to staff (including vendors), guests and students, (e.g., on school/graduation website, social media sites, prominent signage at entrances and throughout the venue, message screens and public announcements before and during the graduation).
- iii. If an attendee becomes sick while at the graduation ceremony, the school must have a protocol in place for that individual to immediately leave the venue. If they are unable to immediately leave (e.g., they need to wait for a ride), there should be a process that allows them to isolate until they are able to leave. People who are sick should go home or to a healthcare facility, depending on the severity of their symptoms. Public transportation should not be used.
- iv. Must identify a point of contact that staff or an attendee can notify if they test positive for COVID-19 within the 2 weeks from the date of the graduation and choose to disclose this information.

v. In the event of a positive test result, the COVID-19 Point of Contact must notify the Montgomery County Department of Health and Human Services (240-777-1755) within one business day of the notice and provide them with the name and contact information of the positive case.

vi. Put systems in place to encourage self-reporting.

d. *Indoor Graduations.*

i. Total number of persons permitted at an indoor graduation is limited to 25% of the maximum occupancy of the space or 250 people, whichever number is smaller (e.g. if the maximum occupancy of the space is 800, only 250 persons must be permitted).

ii. Must obtain a Letter of Approval prior to the graduation by submitting a COVID-19 Graduation Plan which explains how all of the requirements in paragraphs 10(a) – (c) will be implemented. Any requests for increased occupancy should be made at this time.

e. *Outdoor Graduations.*

i. Total number of persons permitted at an outdoor graduation at any one time must not exceed 50% of the Outdoor Venue's Maximum Occupancy. If an Outdoor Venue does not have a formal Certificate of Occupancy, 40 square feet per person must be used to calculate the occupancy limit.

ii. Schools planning outdoor graduations should put careful thought and planning into a back-up plan in case of inclement weather. Back-up venues must meet all the requirements outlined in this guidance.

f. *Recommendations.* Although not required, the following are strongly recommended:

i. Holding multiple smaller graduation ceremonies as necessary, so that all graduating students can be accommodated while minimizing crowd sizes.

ii. Holding a virtual graduation or providing a virtual option for persons who either do not wish to or are unable to attend.

iii. Use of pre-assigned/reserved seating is recommended.

iv. Attendance by persons traveling from outside of Maryland, Virginia, and the District of Columbia is strongly discouraged.

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

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

418 **12. Enforcement.** This Order must be enforced by any County department or agency that has  
419 authority over the subject matter of any particular provision and the Montgomery County  
420 Police Department.

421 **13. Applicability.** This regulation applies Countywide.

422 **14. Severability.** If the application of this regulation or any part of it to any facts or  
423 circumstances is held invalid, the rest of the regulation and its application to all other facts  
424 and circumstances is intended to remain in effect.

425 **15. Effective Date.** This regulation takes effect on April 20, 2021 at 5 p.m.

This is a correct copy of Council action.

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Selena Mendy Singleton, Esq., Clerk of the Council