SUBJECT

Resolution to adopt a Sixth Amended Board of Health Regulation to prevent the spread of COVID-19 in the County.
Lead Sponsors: Council President Hucker and Council Vice President Albornoz

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 recognize that the County is in the second phase for reopening the County based on the percentage of the County population receiving COVID-19 vaccinations.

DESCRIPTION/ISSUE

- The Council, sitting as the Board of Health, would introduce a resolution to adopt a Sixth 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 incorporate the changes from the first and second phases for reopening the County based on the percentage of the County population receiving COVID-19 vaccinations and modify the face covering requirements based on recent CDC and MDH guidance. The Regulation would also be automatically rescinded on May 28, 2021 when more than 50% of the County population would be fully vaccinated.

SUMMARY OF KEY DISCUSSION POINTS

This report contains:
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Proposed Sixth Board of Health Regulation (showing changes) ©1
Proposed Sixth Board of Health Regulation (Clean) ©22

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MEMORANDUM

May 17, 2021

TO: County Council
FROM: Robert H. Drummer, Senior Legislative Attorney
SUBJECT: Resolution to adopt a Sixth 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 on May 18, 2021 to introduce, hold a public hearing, and act on a Sixth Amended Board of Health Regulation to Prevent the Spread of COVID-19 in the County.

Background


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. On April 20, 2021, the Council, sitting as the Board of Health, adopted a Fourth Amended Board of Health Regulation adding guidance for school graduation ceremonies in Resolution No. 19-794. On April 27, 2021, the Council, sitting as the Board of Health, adopted a Fifth Amended Board of Health Regulation adding guidance for school graduation ceremonies in Resolution No. 19-814. This Resolution, if adopted, would amend Resolution No. 19-814 by recognizing that the County has already entered the first phase for reopening based on the percentage of the County population receiving COVID-19 vaccinations.
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.

The 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 is 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 added guidance for school graduation ceremonies. The guidance includes 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.

Fifth Amended Board of Health Regulation

The Fifth Amended Board of Health Regulation added phases for reopening the County based on the percentage of the County population receiving a first COVID-19 vaccination. At the time, 48.4% of the County population had received at least one dose of the COVID-19 vaccination. The 3 phases of reopening are automatically triggered when the Health Officer reports the vaccination progress to the Board of Health. The reopening requires continued face covering usage and social distancing. The phases are:

1. **at 50%** of the population receiving at least one dose of COVID-19 vaccine:
   (a) gathering limits increase to 50 people indoors and 100 people outdoors;
   (b) businesses limited to 25% capacity move to 50% capacity if they do not sell or permit the consumption of food or drink;
   (c) camps can move to the gathering limits of 50 indoors and 100 outdoors;
   (d) escape rooms can allow 10 people per game;
   (e) museums and galleries may reopen touch exhibits;
   (f) malls may reopen pedestrian concourses and return tables and chairs inside; and
   (g) sports move to 50 people indoors and 100 outdoors with a similar number of spectators;

2. **at 60%** of the population receiving at least one dose of COVID-19 vaccine:
   (a) gathering limits increase to 250 people indoors and no limit outdoors;
   (b) most businesses move to 75% capacity and may sell food and drink for consumption while seated;
   (c) camps can increase to gathering limits of 250 people indoors and no limit outdoors and permit campers from outside the DMV;
   (d) convention and banquet facilities are limited to 50% of the facilities’ maximum capacity per State restrictions;
   (e) cigar and hookah bars may permit smoking outdoors;
   (f) food service establishments may move to 75% of maximum capacity;
   (g) religious facilities may move to 75% of maximum capacity; and
   (h) sports may increase capacity for participants and spectators to 250 people indoors and no limit outdoors; and
3. **at 50%** of the population being **fully vaccinated** with all required doses of the COVID-19 vaccine, all conduct and business in the County must follow any State or MDH requirements in place at the time.

If the Health Officer finds, after reviewing community transmission metrics, that continued reopening phases would be contrary to the public health, the Health Officer must report those concerns to the Board of Health and the continuation to the next phase must be suspended pending a hearing before the Board of Health.

Montgomery County follows the American Academy of Pediatrics face covering guidelines for sports, including guidance that allows the removal of face coverings during vigorous outdoor exercise in high heat and high humidity conditions.

The Fifth Amended Board of Health Regulation took effect on April 27, 2021 at 5 pm.

**Sixth Amended Board of Health Regulation**

The Sixth Amended Board of Health Regulation would recognize that the County has already entered the second phase of reopening because 60% of the population of the County has received at least one dose of a vaccine against COVID-19. It would also modify the face coverings requirements due to the recently revised CDC and MDH guidance. The Regulation would make the following changes:

1. incorporate the changes that automatically happened when the County reached the second reopening phase into the body of the Regulation;
2. eliminate the description of the first and second reopening phases from the Regulation;
3. remove the capacity restrictions on outdoor gatherings and raise the capacity restrictions on indoor gatherings to 250 people;
4. remove the requirement to wear a face covering when outdoors pursuant to recent CDC and MDH guidance;
5. persons who are fully vaccinated would not need to wear a face covering while indoors except as required by MDH, but persons who are not fully vaccinated must continue to wear a face covering when indoors;
6. align the requirements for summer camps with the State’s requirements; and
7. the Regulation would be automatically rescinded on May 28, 2021 when 50% of the County population would be fully vaccinated.

**Future Regulations**

The COVID-19 public health emergency has been a worldwide 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 is vaccinated against this disease, the community spread should lessen if we continue to practice limiting large gatherings, using face coverings, and socially distancing. This Board of Health regulation would continue to reopen the County based on the rate of vaccinations absent an increase in community transmission metrics that would be contrary to the public health.

This packet contains:

- Proposed Sixth Amended Board of Health Regulation showing changes
- Proposed Sixth Amended Board of Health Regulation (Clean)

Circle #

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SITTING AS THE MONTGOMERY COUNTY BOARD OF HEALTH

Lead Sponsors:  Council President Hucker and Council Vice President Albornoz

SUBJECT: Sixth Amended Board of Health Regulation to prevent the spread of COVID-19 in the County

Background


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] private 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), and the Indian variant (known as B.1.617).

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 48.4%] 56.4% of the population of Montgomery County have received at least one dose of the vaccination against COVID-19.

8. COVID-19 in Montgomery County has caused disease in Montgomery County which thus far has claimed the lives of [1460] 1483 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, Centers for Disease Control and Prevention ("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.


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. [19-794] 19-814:
1. Definitions.

a. "Community Transmission Metrics" means daily case rates, COVID-19 test positivity numbers, and case rates per 100,000 in the preceding 14-day period.

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, 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.

d. "Fitness Centers" means a fitness center, dance studios, health clubs, health spas, gyms, training facilities, ice rinks.

e. "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.

f. "Fully vaccinated" means two weeks [after] have passed since a person received the last required dose of an approved COVID-19 vaccine.

[g] g. "Graduation" means any ceremony conferring degrees or diplomas, such as at a college or school.

[h] h. "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.

[i] i. "Outdoor Graduation" means a graduation held in an Outdoor Venue.

[j] j. "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.

[k] k. “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.

[l] l. “Population” means the number of individuals, regardless of age, who reside in Montgomery County, Maryland as determined by the U.S. Census Bureau.

[m] m. “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.

[n] n. “Religious Facilities” means Churches, synagogues, mosques, temples, and other similar religious facilities of any faith.

o. “School” means a public or private elementary or secondary school.

p. “School Bus” means a conveyance used to transport students to or from a School.

[q] q. “Social gatherings” means a gathering of persons from more than one household. It includes parties, receptions, parades, festivals, fundraisers, community, recreational, leisure, and non-professional sports gatherings and events and all events held in Convention and Banquet Facilities.

2. Face Coverings.

a. Requirement to Wear Face Coverings.

i. All persons in the County must wear face coverings when they are:

1. pursuant to CDC or Maryland Department of Health (“MDH”) guidance, whichever is stricter;

2. at all times in a foodservice establishment unless actively engaged in eating or drinking; and

3. when actively engaged in sports – except face coverings are not required for vigorous outdoor exercise during high heat and humidity because it may lead to a bona fide safety risk]
1. in or on any Public Transportation or School Bus;
2. obtaining health care services, including without limitation in offices of physicians and dentists, hospitals, pharmacies, and laboratories; and
3. indoors in any portion of a School where interaction with others is likely, including without limitation, classrooms, hallways, cafeterias, auditoriums, and gymnasiums.

ii. All persons who are not fully vaccinated must also wear face coverings when indoors:
1. in an area where members of the public are generally permitted; and
2. in an indoor work area where interaction with others is likely or where food is prepared;

iii. Face coverings are not required outdoors, but persons who are not fully vaccinated are strongly encouraged to wear face coverings outdoors.

b. Exceptions. Paragraph 2.a. does not require persons to wear Face Coverings:
   i. Pursuant to State Executive Order [21-04-21-01 paragraph IV.b] 21-05-14-

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 must:
      i. require strict adherence to social distancing pursuant to CDC or MDH guidance, whichever is stricter;
      ii. utilize markings and signage to guide employees and customers;
      iii. provide employees with guidance and training to reflect updated 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] are no longer subject to gathering restrictions.
   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%] 75% 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) as required in paragraph 2.
   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
   3. failure to wear Face Coverings when required by paragraph 2 or maintain social distancing may result in their being refused service and found to be in violation of this order.

b. Cigar Bars/Hookah Bars/Vape Shops. [May open solely to sell retail goods. Smoking on site is strictly prohibited.] May permit smoking outdoors.

c. Malls.
   i. [Shopping centers with one or more enclosed pedestrian concourses may maintain pedestrian concourses and other interior common areas open, but solely to the extent necessary for the general public to enter and exit retail establishments] May fully reopen pedestrian concourses.
   ii. Food courts located inside indoor malls shall follow paragraph 6.a.
   iii. Congregating in any indoor area outside of retail stores is prohibited.
   iv. Malls [shall remove] may return tables, chairs, benches, or any other items [which could encourage congregating from] to indoor areas outside of retail stores.

d. Religious Facilities.
   i. The total number of persons permitted in a religious facility may not exceed [50%] 75% of the facility’s maximum occupancy.
   ii. Occupancy numbers shall include faith leaders, volunteers, and congregants.
   iii. Must follow spacing, screening, cleaning, and music guidelines as stated in the County’s Religious Facilities Reopening page.

e. Sports.
   i. Except as provided in paragraph 6(e)(vii), all organized youth sports may be played either indoors or outdoors only after a COVID Protocol Plan is approved by the County Health Officer or the Officer’s designee. The Plan
must align with guidelines by the CDC, Maryland State Department of Education (MSDE), and Montgomery County, and include 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] paragraph 2;

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. 

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

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

iii. All organized sports played in the County must comply with the gathering guidelines described in paragraph 6(e)(i), including limiting the participating athletes to those listed on the official roster as determined 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 requirements in paragraph 2. [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] permitted.
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] 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 as required by paragraph 2 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 indoors 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%] 75% 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] 10 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.
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. Museums and Art Galleries may open.

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.

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 75% 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”).

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.**
255 a. **General Requirements.**

i. [Only campers] **Campers** from outside **of** 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.] **Camps must follow MDH and COMAR requirements.**

[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]
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.

11. [Impact of Increased Vaccination.]

a. Upon the Board of Health’s receipt of notification by the Health Officer, or the Health Officer’s designee, that 50% of the population of Montgomery County has received at least one dose of a vaccination against COVID-19, the following must automatically occur provided continued face covering usage and social distancing are strictly followed:
i. **Gathering** limits, as stated in paragraph 5 of this Regulation will increase to 50 people indoors and 100 people outdoors.

ii. Businesses, Organizations, Establishments, and Facilities named in paragraph 8 may increase to 50% maximum capacity.

iii **Businesses, Organizations, Establishments, and Facilities** named in paragraphs 7 and 8 may sell and permit the consumption of food and drink at the facility provided:

1. Food and drink is only consumed while seated in a socially distant manner; and

2. Food and drink are not consumed while standing or walking.

iv. **Camps**, including Youth Camp Programming and Training and Residential Camps, may increase the number of participants to 50 indoors and 100 outdoors.

v. **Escape rooms** may allow 10 people per game, consistent with the table limitations present at restaurants.

vi. **Museums and Art Galleries** may reopen please touch exhibits or interactive displays.

vii. **Malls** may fully reopen pedestrian concourses and may return tables, chairs, benches and other items to indoor areas outside of retail stores.

viii. **Sports**:

1. total number of people present for sports played indoors may increase to 50 people indoors and 100 people outdoors; and

2. total number of spectators present may increase to 50 spectators indoors and 100 spectators outdoors.

b. Upon the Board of Health’s receipt of notification by the Health Officer, or the Health Officer’s designee, that 60% of the population has received at least one dose of a vaccination against COVID-19, the following must automatically occur provided face covering usage as required by paragraph 2 and social distancing are strictly followed:

i. **Gathering** limits, as stated in paragraph 5 of this Regulation will increase to 250 people indoors with no limitation outdoors except as would be required to comply with social distancing.
ii. Businesses, Organizations, Establishments, and Facilities named in paragraphs 7 and 8 may increase to 75% maximum capacity.

iii. Camps may:
   1. Increase the number of participants pursuant to the gathering limits stated in paragraph 11(b)(i); and
   2. Permit campers from outside of Maryland, the District of Columbia, or Virginia.

iv. Convention and Banquet Facilities are limited to 50% of the facility’s maximum occupancy.

v. Cigar Bars, Hookah Bars, Vape Shops may permit smoking outdoors.

vi. Foodservice establishments may increase indoor capacity to 75% of their maximum capacity.

vii. Religious facilities may increase capacity to 75% of the facility’s maximum capacity.

viii. Sports may:
   1. Increase the number of participants and spectators pursuant with the gathering limits stated in paragraph 11(b)(i); and
   2. Engage in play with teams from outside of Maryland, the District of Columbia, and Virginia.

c. Upon the Board of Health’s receipt of notification by the Health Officer, or the Health Officer’s designee, that 50% of the population has been fully vaccinated with all required doses of a COVID-19 vaccine, the following must automatically occur provided face covering usage and social distancing continue to be strictly followed:

i. All conduct and business in Montgomery County may follow any State or MDH requirements that are in place at that time.

d. If, after a review of the Community Transmission Metrics, the Health Officer determines that the continued automatic relaxation of restrictions is contrary to the public health and could lead to the continued spread of COVID-19 or any associated variant, the Health Officer, or the Health Officer’s designee, must notify the Board of Health of those concerns, and any continued relaxation of restrictions must be suspended pending a hearing before the Board of Health.
Termination of this Order

a. Effective May 28, 2021 at 6:00 a.m. this order will be rescinded and have no further effect at which point all conduct and business in Montgomery County must follow any State or MDH requirements that are in place at that time.

b. If, after a review of the Community Transmission Metrics, the Health Officer determines that the continued automatic relaxation of restrictions is contrary to the public health and could lead to the continued spread of COVID-19 or any associated variant, the Health Officer, or the Health Officer’s designee, must notify the Board of Health of those concerns, and any continued relaxation of restrictions must be suspended pending a hearing before the Board of Health.

12. [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.

13. 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.

14. Applicability. This regulation applies Countywide.

15. 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.

16. Effective Date. This regulation takes effect on [April 27] May 18, 2021 at 5 p.m.

This is a correct copy of Council action.
SITTING AS THE MONTGOMERY COUNTY BOARD OF HEALTH

Lead Sponsors: Council President Hucker and Council Vice President Albornoz

SUBJECT: Sixth Amended Board of Health Regulation to prevent the spread of COVID-19 in the County

Background


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 private 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), the Brazil variant (known as P.1), and the Indian variant (known as B.1.617).

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 56.4% of the population of Montgomery County have received at least one dose of the vaccination against COVID-19.

8. COVID-19 in Montgomery County has caused disease in Montgomery County which thus far has claimed the lives of 1483 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, Centers for Disease Control and Prevention (“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.


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. 19-814:
1. Definitions.

a. “Community Transmission Metrics” means daily case rates, COVID-19 test positivity numbers, and case rates per 100,000 in the preceding 14-day period.

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, 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.

d. “Fitness Centers” means a fitness center, dance studios, health clubs, health spas, gyms, training facilities, ice rinks.

e. “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.

f. “Fully vaccinated” means two weeks [after] have passed since a person received the last required dose of an approved COVID-19 vaccine.

g. “Graduation” means any ceremony conferring degrees or diplomas, such as at a college or school.

h. “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.

i. “Outdoor Graduation” means a graduation held in an Outdoor Venue.

j. “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.

k. “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.

l. “Population” means the number of individuals, regardless of age, who reside in Montgomery County, Maryland as determined by the U.S. Census Bureau.

m. “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.

n. “Religious Facilities” means Churches, synagogues, mosques, temples, and other similar religious facilities of any faith.

o. “School” means a public or private elementary or secondary school.

p. “School Bus” means a conveyance used to transport students to or from a School.

q. “Social gatherings” means a gathering of persons from more than one household. It includes parties, receptions, parades, festivals, fundraisers, community, recreational, leisure, and non-professional sports gatherings and events and all events held in Convention and Banquet Facilities.

2. Face Coverings.

a. Requirement to Wear Face Coverings.

i. All persons in the County must wear face coverings when they are:

1. in or on any Public Transportation or School Bus;

2. obtaining health care services, including without limitation in offices of physicians and dentists, hospitals, pharmacies, and laboratories; and

3. indoors in any portion of a School where interaction with others is likely, including without limitation, classrooms, hallways, cafeterias, auditoriums, and gymnasiums.
ii. All persons who are not fully vaccinated must also wear face coverings when indoors;

1. in an area where members of the public are generally permitted; and
2. in an indoor work area where interaction with others is likely or where food is prepared;

iii. Face coverings are not required outdoors, but persons who are not fully vaccinated are strongly encouraged to wear face coverings outdoors.

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

i. Pursuant to State Executive Order 21-05-14-01 paragraph III.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 must:

i. require strict adherence to social distancing pursuant to CDC or MDH guidance, whichever is stricter;

ii. utilize markings and signage to guide employees and customers;

iii. provide employees with guidance and training to reflect updated 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 are no longer subject to gathering restrictions.
      ii. Indoor gatherings of more than 250 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 75% 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) as required in paragraph 2.
      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
failure to wear Face Coverings when required by paragraph 2 or maintain social distancing may result in their being refused service and found to be in violation of this order.

b. **Cigar Bars/Hookah Bars/Vape Shops.** May permit smoking outdoors.

c. **Malls.**

   i. May fully reopen pedestrian concourses.

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

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

   iv. Malls may return tables, chairs, benches, or any other items to indoor areas outside of retail stores.

d. **Religious Facilities.**

   i. The total number of persons permitted in a religious facility may not exceed 75% of the facility’s maximum occupancy.

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

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

e. **Sports.**

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

      1. requiring that face coverings be worn per paragraph 2;

      2. social distancing with at least 6 feet between all participants to the extent possible; and

      3. requiring the use of a student attestation form or COVID-19 Athlete/Coach Monitoring Form at all activities conducted.

   Although voluntary, regular testing should be part of the COVID Protocol Plan.
ii. A Letter of Approval must be obtained before any tournaments, championships, or events are held in Montgomery County that are expected to exceed guidelines.

iii. All organized sports played in the County must comply with the gathering guidelines described in paragraph 6(e)(i), including limiting the participating athletes to those listed on the official roster as determined 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 face covering requirements in paragraph 2.

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

vi. 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 as required by paragraph 2 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 250 spectators indoors 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 75% Maximum Occupancy.

a. **Fitness Centers.**
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. 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) may open.

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 75% capacity.**

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. Campers from outside of Maryland, Virginia, and District of Columbia are permitted to attend youth camps in Montgomery County.

ii. Camps must follow MDH and COMAR requirements.

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 250 people.

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 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.

11. **Termination of this Order**

a. Effective May 28, 2021 at 6:00 a.m. this order will be rescinded and have no further effect at which point all conduct and business in Montgomery County must follow any State or MDH requirements that are in place at that time.

b. If, after a review of the Community Transmission Metrics, the Health Officer determines that the continued automatic relaxation of restrictions is contrary to the public health and could lead to the continued spread of COVID-19 or any associated variant, the Health Officer, or the Health Officer’s designee, must notify the Board.
of Health of those concerns, and any continued relaxation of restrictions must be
suspended pending a hearing before the Board of Health.

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.

13. Applicability. This regulation applies Countywide.

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.

15. Effective Date. This regulation takes effect on May 18, 2021 at 5 p.m.

This is a correct copy of Council action.

Selena Mendy Singleton, Esq.,
Clerk of the Council