



**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

**REVISED**  
AGENDA ITEMS 2B & 2C  
May 18, 2021  
**Introduction/Public  
Hearing/Action**

## 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 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 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 The Regulation would also be automatically rescinded on May 28, 2021 when more than 50% of the County population would be fully vaccinated.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:

Staff Report

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Proposed Sixth Board of Health Regulation (showing changes)

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Proposed Sixth Board of Health Regulation (Clean)

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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**

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, March 18, 2021, April 16, 2021, and on May 14, 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. 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.

## **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 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 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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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:** Sixth 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, March 18, 2021, [and on] April 16, 2021 and on May 14, 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] 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.
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. The Council Adopted the Fourth Amended Board of Health Regulation on April 20, 2021 in Resolution No. 19-794. [This] The Council Adopted the Fifth Amended Board of Health Regulation in [would amend] Resolution No. [19-794] 19-814. This Board of Health Regulation would amend Resolution No. 19-814.
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       **1. Definitions.**

- 2       a.       “*Community Transmission Metrics*” means daily case rates, COVID-19 test  
3               positivity numbers, and case rates per 100,000 in the preceding 14-day period.
- 4       b.       “*Convention and Banquet Facilities*” means convention facilities, conference  
5               facilities, banquet and catering facilities, community halls, and Social Clubs,  
6               including without limitation, hotel ballrooms.
- 7       c.       “*Face Covering*” means a covering that fully covers a person’s nose, mouth, and  
8               chin and is secured to the person’s head, including cloth face coverings, scarves,  
9               and bandanas. It does not include face covering with a valve; or solely wearing a  
10              face shield.
- 11      d.       “*Fitness Centers*” means a fitness center, dance studios, health clubs, health spas,  
12              gyms, training facilities, ice rinks.
- 13      e.       “*Foodservice Establishment*” means a restaurant, bars, or other similar  
14              establishments that sell food or beverages for consumption on-premises in  
15              Montgomery County and social and fraternal clubs with dining facilities.
- 16      f.       “Fully vaccinated” means two weeks [after] have passed since a person received  
17              the last required dose of an approved COVID-19 vaccine.
- 18      [f] g.     “*Graduation*” means any ceremony conferring degrees or diplomas, such as at a  
19              college or school.
- 20      [g] h.     “*Maximum Occupancy*” means the maximum occupancy load of a facility under  
21              the applicable fire code or pursuant to applicable laws, regulations, and permits. If  
22              a facility is not rated for maximum occupancy, a person per square foot option must  
23              be used to calculate maximum occupancy.
- 24      [h] i.     “*Outdoor Graduation*” means a graduation held in an Outdoor Venue.
- 25      [i] j.     “*Outdoor Venue*” means any outdoor venue in the County at which:
- 26              (i)     live performances occur, motion pictures are shown, or sporting events  
27                      occur (including, without limitation, major league, professional, minor  
28                      league, semiprofessional, amateur, recreational, motor sports, and collegiate  
29                      sporting events); and
- 30              (ii)    entry is limited to ticketed customers.
- 31              “*Outdoor Venue*” does not include golf courses and driving ranges, outdoor archery  
32              and shooting ranges, marinas and watercraft rental businesses, campgrounds, horse

33 boarding and riding facilities, drive-in movie theaters, outdoor swimming pools,  
 34 outdoor day camps, amusement parks, tour boats, miniature golf establishments,  
 35 and go-kart tracks.

36 [j] k. “*Personal Service Establishments*” means hair salons, barbershops, and  
 37 establishments that provide tanning, tattoo, waxing, threading, electrolysis,  
 38 cryotherapy, facial and other skin services, massage, and nail technician services.

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

41 [l] m. “*Public Transportation*” means shared-ride surface transportation services that are  
 42 open to the general public, including without limitation, taxi services, ride-sharing  
 43 services, car services, and transit services operating within Montgomery County.  
 44 Examples of Public Transportation include, but are not limited, to Ride-On bus  
 45 service, WMATA bus and train service, MARC train service, and Mobility and  
 46 Paratransit services.

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

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

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

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

## 55 2. Face Coverings.

56 a. *Requirement to Wear Face Coverings.*

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

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

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

62 [3. when actively engaged in sports – except face coverings are not  
 63 required for vigorous outdoor exercise during high heat and  
 64 humidity because it may lead to a bona fide safety risk]

- 65                   1.    in or on any Public Transportation or School Bus;  
66                   2.    obtaining health care services, including without limitation in  
67                   offices of physicians and dentists, hospitals, pharmacies, and  
68                   laboratories; and  
69                   3.    indoors in any portion of a School where interaction with others is  
70                   likely, including without limitation, classrooms, hallways,  
71                   cafeterias, auditoriums, and gymnasiums.  
72                ii.   All persons who are not fully vaccinated must also wear face coverings  
73                   when indoors;  
74                   1.    in an area where members of the public are generally permitted; and  
75                   2.    in an indoor work area where interaction with others is likely or  
76                   where food is prepared;  
77                iii.   Face coverings are not required outdoors, but persons who are not fully  
78                   vaccinated are strongly encouraged to wear face coverings outdoors.  
79                b.    *Exceptions.* Paragraph 2.a. does not require persons to wear Face Coverings:  
80                   i.    Pursuant to State Executive Order [21-04-21-01 paragraph IV.b] 21-05-14-  
81                   01 paragraph III.b.

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

- 83                a.    Unless expressly stated to the contrary, all businesses, organizations,  
84                   establishments, and facilities that are permitted to operate under this Order must:  
85                   i.    require strict adherence to social distancing pursuant to CDC or MDH  
86                   guidance, whichever is stricter;  
87                   ii.   utilize markings and signage to guide employees and customers;  
88                   iii.   provide employees with guidance and training to reflect updated CDC  
89                   guidance for their workplace;  
90                   iv.   use CDC and Environmental Protection Agency (“EPA”) approved  
91                   disinfectants to clean spaces daily; and  
92                   v.    require employees to wash their hands hourly.  
93                b.    All businesses, organizations, establishments, and facilities that are permitted to  
94                   open shall post signage indicating that they are in compliance with all provisions  
95                   of paragraph 3.a of this Order.

### 96   **4. Letters of Approval.**

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

## 106 5. Gatherings.

- 107 a. Unless expressly stated in another paragraph of this Order:
- 108 i. Outdoor gatherings [of more than 50 people are prohibited] are no longer  
109 subject to gathering restrictions.
- 110 ii. Indoor gatherings of more than [25] 250 people are prohibited.
- 111 iii. The size of the location and venue of any gathering must accommodate  
112 applicable social distancing for the number of attendees.
- 113 iv. If more than one household is present at a gathering each individual present  
114 at the gathering must be counted for purposes of determining compliance.

## 115 6. Businesses that May Open.

- 116 a. *Foodservice Establishments.*
- 117 i. Total number of persons permitted in the indoor dining portion of the  
118 foodservice establishment shall not exceed [50%] 75% of the maximum  
119 occupancy.
- 120 ii. Outdoor dining at a foodservice establishment must follow MDH Order No  
121 2021-03-09-01 paragraph 2.A.
- 122 iii. May resume buffet service pursuant to MDH Order No 2021-03-09-01.
- 123 iv. Must require all customers to wear Face Coverings unless actively engaged  
124 in the act of eating or drinking (e.g. while seated at the table and talking but  
125 not eating or drinking) as required in paragraph 2.
- 126 v. Must maintain a daily record of the date, time, name and contact  
127 information for at least one person for each dining party and maintain the  
128 daily record for at least 30 days, to assist with contact tracing: date;

- 129 vi. Must post signage at each outdoor dining entrance advising customers and  
130 visitors that:
- 131 1. they must comply with the Face Covering requirements at all times  
132 when they are not actively eating or drinking;
- 133 2. they must maintain social distancing of at least 6 feet when waiting  
134 to be seated; and
- 135 3. failure to wear Face Coverings when required by paragraph 2 or  
136 maintain social distancing may result in their being refused service  
137 and found to be in violation of this order.
- 138 b. *Cigar Bars/Hookah Bars/Vape Shops.* [May open solely to sell retail goods.  
139 Smoking on site is strictly prohibited.] May permit smoking outdoors.
- 140 c. *Malls.*
- 141 i. [Shopping centers with one or more enclosed pedestrian concourses may  
142 maintain pedestrian concourses and other interior common areas open, but  
143 solely to the extent necessary for the general public to enter and exit retail  
144 establishments] May fully reopen pedestrian concourses.
- 145 ii. Food courts located inside indoor malls shall follow paragraph 6.a.
- 146 iii. Congregating in any indoor area outside of retail stores is prohibited.
- 147 iv. Malls [shall remove] may return tables, chairs, benches, or any other items  
148 [which could encourage congregating from] to indoor areas outside of retail  
149 stores.
- 150 d. *Religious Facilities.*
- 151 i. The total number of persons permitted in a religious facility may not exceed  
152 [50%] 75% of the facility's maximum occupancy.
- 153 ii. Occupancy numbers shall include faith leaders, volunteers, and  
154 congregants.
- 155 iii. Must follow spacing, screening, cleaning, and music guidelines as stated in  
156 the County's [Religious Facilities Reopening](#) page.
- 157 e. *Sports.*
- 158 i. Except as provided in paragraph 6(e)(vii), all organized youth sports may  
159 be played either indoors or outdoors only after a COVID Protocol Plan is  
160 approved by the County Health Officer or the Officer's designee. The Plan



- 161 must align with guidelines by the CDC, Maryland State Department of  
162 Education (MSDE), and Montgomery County, and include a plan for;
- 163 1. [contact tracing with an attendance tracking sheet that must be  
164 completed for all activities conducted;
  - 165 2.] requiring that face coverings be worn per [guidelines from the  
166 American Academy of Pediatrics] paragraph 2;
  - 167 [3] 2. social distancing with at least 6 feet between all participants to the  
168 extent possible; and
  - 169 [4] 3. requiring the use of a student attestation form or COVID-19  
170 Athlete/Coach Monitoring Form at all activities conducted.
- 171 Although voluntary, regular testing should be part of the COVID Protocol  
172 Plan.
- 173 ii. A Letter of Approval must be obtained before any tournaments,  
174 championships, or events are held in Montgomery County that are expected  
175 to exceed guidelines.
  - 176 iii. All organized sports played in the County must comply with the gathering  
177 guidelines described in paragraph 6(e)(i), including limiting the  
178 participating athletes to those listed on the official roster as determined  
179 through the Maryland Public Secondary Schools Athletic Association  
180 (MPSSAA) or the organization's governing body or league, coaches, and  
181 up to 12 additional participants acting in an official game capacity.
  - 182 iv. Sports played outside of an organized league must follow social gathering  
183 guidelines and all persons must comply with the [State mandate to use a]  
184 face covering requirements in paragraph 2. [whenever social distancing is  
185 not an option. The total number of people present for outdoor sports played  
186 outside of an organized league is limited to 50 and the total number of  
187 people present for indoor sports played outside of an organized league is  
188 limited to 25].
  - 189 v. Play and games with teams from outside of Maryland, Virginia, or the  
190 District of Columbia is [prohibited] permitted.

- 191 vi. [Sports may not open to the general public. On or after April 2, 2021, 2  
 192 spectators per participating athlete up to a maximum of 50 spectators]  
 193 Spectators may be permitted at a sports event if:  
 194 1. the site has a barrier to delineate the area for spectators from the area  
 195 for the participating athletes and coaches;  
 196 2. the area for the spectators is large enough to provide for social  
 197 distancing between all spectators from different households; and  
 198 3. all spectators wear face coverings as required by paragraph 2 and  
 199 practice social distancing of at least 6 feet.

200 The Health Officer or the Officer's designee may approve a COVID  
 201 Protocol Plan that includes more than [50] 250 spectators indoors for an  
 202 event if the Officer finds that the Plan provides for reasonable safety for all  
 203 participants.

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

208 **7. Businesses that may open at [50%] 75% Maximum Occupancy.**

209 a. *Fitness Centers.*

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

213 b. *Bowling Alleys.*

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

219 c. *Escape Rooms.*

- 220 i. [Only private games of a maximum of [6] 10 people all permitted.  
 221 ii. All games are by appointment only and must be staggered so as to prevent  
 222 patrons from interacting with others outside of their group.

223                   iii.] Before and after each game, all items in game rooms and items provided to  
 224                   patrons (including but not limited to lock, props, and any touchable  
 225                   surfaces) must be thoroughly cleaned using CDC and EPA approved  
 226                   disinfectants.

227           d.    *Museums and Art Galleries.*

228                   i.    Exhibits requiring contact (for example “please touch” exhibits or other  
 229                   interactive displays) [must remain closed] may open.

230           e.    *Personal Services.*

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

233           f.    *Pools.*

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

235           g.    *Retail Establishments.*

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

238           h.    *Recreation Centers.*

239   **[8. Other Businesses, Organizations, Establishments, and Facilities that may open at**  
 240   **[25%] 75% capacity [provided they do not sell or permit food for consumption at the**  
 241   **facility].**

242           a.    *Amusement parks.* Including stand-alone types, such as, but not limited to merry-  
 243                   go-rounds and roller coasters.

244           b.    *Bingo halls.*

245           c.    *Go-kart tracks.*

246           d.    *Roller skating rinks.*

247           e.    *Social Clubs.*

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

251           g.    *Trampoline Parks.*

252           h.    Any other establishment not listed above that is subject to the admission and  
 253                   amusement tax under Title 4 of the Tax-General Article of the Maryland Code.

254   **9. Camps.**

- 255 a. *General Requirements.*
- 256 i. [Only campers] Campers from outside of Maryland, Virginia, and District  
257 of Columbia are permitted to attend youth camps in Montgomery County.
- 258 ii. [Participants must be separated into groups of 25 participants indoors and  
259 groups of 50 participants outdoors. Participants include all campers, staff,  
260 and any volunteers. Participants must not mix with members of another  
261 group in the camp.] Camps must follow MDH and COMAR requirements.
- 262 [iii. Must have a COVID Protocol Plan that is approved by the Health Officer  
263 or the Health Officer's designee for daily monitoring of the health and  
264 safety of campers and staff which includes:
- 265 1. A daily COVID-19 symptom and exposure attestation form to be  
266 completed by campers (or their parent/guardian) and staff. These  
267 must be maintained in such a manner so as to preserve  
268 confidentiality.
  - 269 2. Excluding staff or campers, pursuant to CDC guidance, who have  
270 tested positive for COVID-19, are symptomatic, or who have had a  
271 known exposure to a confirmed case of COVID-19.
  - 272 3. Adopting infection control strategies which include:
    - 273 a. Social distancing;
    - 274 b. Hand hygiene;
    - 275 c. Cough and sneeze hygiene;
    - 276 d. Proper use, removal, and washing of cloth face coverings;
    - 277 e. Providing policies and education on COVID-19 symptoms  
278 and response;
    - 279 f. Avoiding the use of items that are not easily cleaned and  
280 disinfected;
    - 281 g. Ensuring adequate supplies of tissues, hand soap, alcohol-  
282 based hand sanitizer, EPA approved cleaning products for  
283 COVID-19 disinfection suited for the facility;
    - 284 h. Effective cleaning and disinfection of surfaces; and
    - 285 i. regularly reviewing and incorporating into the Plan any CDC  
286 guidance for youth and summer camps that does not conflict

- 287 with this Regulation.]
- 288 [b. *Camp Food Service Operations.*
- 289 i. Camp food service operations must ensure there are no shared items such
- 290 as serving utensils or condiment containers.
- 291 ii. Must ensure physical distancing for campers waiting for food service and
- 292 while dining.]
- 293 [c. *Youth Camp Programming and Training.*
- 294 i. Field Trips and Camp Transportation.
- 295 1. All transportation provided by camps should follow social
- 296 distancing guidelines for occupants and should prevent mixing of
- 297 camp groups.
- 298 2. Staff and campers must use face coverings during transportation and
- 299 when in public areas.
- 300 3. Clean and disinfect vehicles after each use.
- 301 ii. Sports activities.
- 302 1. Limited to groups of 25 participants indoors and groups of 50
- 303 participants outdoors. Participants include all campers, staff, and
- 304 any volunteers. Participants must not mix with participants from
- 305 another group.
- 306 2. Close physical contact during sports activities should be avoided
- 307 whenever possible and masks must be worn when actively engaged
- 308 in sports, except as recommended by the [American Academy of](#)
- 309 [Pediatrics](#).
- 310 3. Equipment must be cleaned and disinfected after each use.]
- 311 [d. *Residential Camps.* All residential youth camps must implement the following
- 312 measures in addition to the measures described above:
- 313 i. Each group of campers/staff stays with their sleeping group, do not mix
- 314 campers or staff among groups for the duration of the session.
- 315 1. Maximum capacity for each sleeping area is groups of 25 adults and
- 316 campers.
- 317 2. For bunk beds, if both upper and lower beds are occupied, sleep with
- 318 the top bunk individual's head above the lower bunk individual's

- 319 feet.
- 320 3. Minimum of 6 feet between each occupied bunk or bed, provide
- 321 maximum distance between each individual's head.
- 322 4. Complete COVID-19 temperature and symptom screening for staff
- 323 and campers every morning.
- 324 ii. Residential camps with a COVID-19 positive or probable case will send all
- 325 campers/staff in the group to their homes or quarantine in place with
- 326 additional requirements based on consultation with the local health
- 327 department.
- 328 iii. Clean and disinfect high touch surfaces in bathroom facilities and sleeping
- 329 quarters daily.]

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

- 331 a. *Generally.*
- 332 i. Persons/groups of guests not of the same household must maintain a
- 333 minimum of 6 feet of social distance at all times, including during any
- 334 graduate procession.
- 335 ii. All persons present must wear face coverings consistent with paragraph 2
- 336 of this Regulation.
- 337 iii. All persons present must be included in the numerical attendance totals.
- 338 This includes students, faculty, staff, workers, vendors, guests, and
- 339 speakers.
- 340 iv. Any person with a fever or who is exhibiting symptoms of COVID-19, must
- 341 not attend a graduation ceremony.
- 342 v. A record of all individuals who attended the graduation must be maintained
- 343 for at least 30 days to assist with contact tracing. Information collected must
- 344 include name, date, phone number and email (if available). This
- 345 information must be provided within 24 hours if requested by MCDHHS if
- 346 a case of COVID-19 associated with the graduation occurs. Seating charts
- 347 must also be provided if used.
- 348 vi. The school must post the following signage:

- 349 1. At any entrance(s) stating that nobody with a fever or symptoms of  
350 COVID-19 is permitted to enter the venue and that individuals must  
351 wear a mask or face covering.
- 352 2. Throughout the venue reinforcing social distancing, face covering  
353 usage, and hand hygiene policies.
- 354 3. At areas of entry and egress to allow the one-way flow of attendees.
- 355 4. On floors and sidewalks both inside and outside the venue to provide  
356 physical guides to ensure individuals remain at least 6 feet apart in  
357 queuing areas.
- 358 5. Marking seating arrangements to delineate physically distanced  
359 seating.
- 360 vii. Must prohibit congregating or gathering in common areas both inside and  
361 outside of the venue before or after the graduation ceremony.
- 362 viii. Prohibit group or staged photography.
- 363 b. *Ceremony.*
- 364 i. Ceremonies must not exceed 2 hours, but the venue may be open for an hour  
365 in advance and after the ceremony to prevent crowding at points of ingress  
366 and egress.
- 367 ii. No more than 10 persons must be permitted on the stage at any given time.  
368 Persons on the stage must be spaced at least 6 feet apart.
- 369 iii. Only single performers/speakers must be allowed (e.g., no choirs or bands)  
370 during the ceremony.
- 371 1. A minimum of 12 feet must be maintained from the audience if  
372 performers/speakers are masked.
- 373 2. A minimum of 18 feet must be maintained from the audience if  
374 performers/speakers are unmasked.
- 375 3. Use of shared objects during the graduation should be minimized  
376 (e.g. microphones).
- 377 4. Diplomas must be distributed with no handshake or physical  
378 contact.
- 379 5. No food or beverage service is permitted during ceremonies  
380 (including concession stands).

- 381 6. If permitted by the venue, guests may bring their own  
382 beverages/snacks which may only be consumed while seated.
- 383 7. All guests must be seated and remain in their seats throughout the  
384 ceremony.
- 385 8. Any items handed out to guests must be single use or cleaned and  
386 disinfected between each guest use (e.g., assisted audio devices).
- 387 c. *Communication and Response.* Schools must develop a comprehensive plan to  
388 communicate measures in place to prevent the spread of COVID-19 with all  
389 attendees of the graduation. The plan must:
- 390 i. Identify and address potential language, cultural, and disability barriers in  
391 the communication plan.
- 392 ii. Communicate COVID-19 policies to staff (including vendors), guests and  
393 students, (e.g., on school/graduation website, social media sites, prominent  
394 signage at entrances and throughout the venue, message screens and public  
395 announcements before and during the graduation).
- 396 iii. If an attendee becomes sick while at the graduation ceremony, the school  
397 must have a protocol in place for that individual to immediately leave the  
398 venue. If they are unable to immediately leave (e.g., they need to wait for  
399 a ride), there should be a process that allows them to isolate until they are  
400 able to leave. People who are sick should go home or to a healthcare  
401 facility, depending on the severity of their symptoms. Public transportation  
402 should not be used.
- 403 iv. Must identify a point of contact that staff or an attendee can notify if they  
404 test positive for COVID-19 within the 2 weeks from the date of the  
405 graduation and choose to disclose this information.
- 406 v. In the event of a positive test result, the COVID-19 Point of Contact must  
407 notify the Montgomery County Department of Health and Human Services  
408 (240-777-1755) within one business day of the notice and provide them  
409 with the name and contact information of the positive case.
- 410 vi. Put systems in place to encourage self-reporting.
- 411 d. *Indoor Graduations.*



- 412 i. Total number of persons permitted at an indoor graduation is limited to  
413 [25% of the maximum occupancy of the space or] 250 people [, whichever  
414 number is smaller (e.g. if the maximum occupancy of the space is 800, only  
415 250 persons must be permitted)].
- 416 ii. Must obtain a Letter of Approval prior to the graduation by submitting a  
417 COVID-19 Graduation Plan which explains how all of the requirements in  
418 paragraphs 10(a) – (c) will be implemented. Any requests for increased  
419 occupancy should be made at this time.
- 420 e. *Outdoor Graduations.*
- 421 i. Total number of persons permitted at an outdoor graduation at any one time  
422 must not exceed [50% of] the Outdoor Venue’s Maximum Occupancy. If  
423 an Outdoor Venue does not have a formal Certificate of Occupancy, 40  
424 square feet per person must be used to calculate the occupancy limit.
- 425 ii. Schools planning outdoor graduations should put careful thought and  
426 planning into a back-up plan in case of inclement weather. Back-up venues  
427 must meet all the requirements outlined in this guidance.
- 428 f. *Recommendations.* Although not required, the following are strongly  
429 recommended:
- 430 i. Holding multiple smaller graduation ceremonies as necessary, so that all  
431 graduating students can be accommodated while minimizing crowd sizes.
- 432 ii. Holding a virtual graduation or providing a virtual option for persons who  
433 either do not wish to or are unable to attend.
- 434 iii. Use of pre-assigned/reserved seating is recommended.
- 435 iv. Attendance by persons traveling from outside of Maryland, Virginia, and  
436 the District of Columbia is strongly discouraged.

437 **11. [Impact of Increased Vaccination.**

- 438 a. Upon the Board of Health’s receipt of notification by the Health Officer, or the  
439 Health Officer’s designee, that 50% of the population of Montgomery County has  
440 received at least one dose of a vaccination against COVID-19, the following must  
441 automatically occur provided continued face covering usage and social distancing  
442 are strictly followed:

- 443 i. *Gathering* limits, as stated in paragraph 5 of this Regulation will increase to  
444 50 people indoors and 100 people outdoors.
- 445 ii. *Businesses, Organizations, Establishments, and Facilities* named in  
446 paragraph 8 may increase to 50% maximum capacity.
- 447 iii. *Businesses, Organizations, Establishments, and Facilities* named in  
448 paragraphs 7 and 8 may sell and permit the consumption of food and drink  
449 at the facility provided:
- 450 1. Food and drink is only consumed while seated in a socially distant  
451 manner; and
- 452 2. Food and drink are not consumed while standing or walking.
- 453 iv. *Camps*, including Youth Camp Programming and Training and Residential  
454 Camps, may increase the number of participants to 50 indoors and 100  
455 outdoors.
- 456 v. *Escape rooms* may allow 10 people per game, consistent with the table  
457 limitations present at restaurants.
- 458 vi. *Museums and Art Galleries* may reopen please touch exhibits or interactive  
459 displays.
- 460 vii. *Malls* may fully reopen pedestrian concourses and may return tables, chairs,  
461 benches and other items to indoor areas outside of retail stores.
- 462 viii. *Sports*:
- 463 1. total number of people present for sports played indoors may  
464 increase to 50 people indoors and 100 people outdoors; and
- 465 2. total number of spectators present may increase to 50 spectators  
466 indoors and 100 spectators outdoors.
- 467 b. Upon the Board of Health's receipt of notification by the Health Officer, or the  
468 Health Officer's designee, that 60% of the population has received at least one dose  
469 of a vaccination against COVID-19, the following must automatically occur  
470 provided face covering usage as required by paragraph 2 and social distancing are  
471 strictly followed:
- 472 i. *Gathering* limits, as stated in paragraph 5 of this Regulation will increase to  
473 250 people indoors with no limitation outdoors except as would be required  
474 to comply with social distancing.

- 475 ii. *Businesses, Organizations, Establishments, and Facilities* named in  
476 paragraphs 7 and 8 may increase to 75% maximum capacity.
- 477 iii. *Camps* may:
- 478 1. Increase the number of participants pursuant to the gathering limits  
479 stated in paragraph 11(b)(i); and
- 480 2. Permit campers from outside of Maryland, the District of Columbia,  
481 or Virginia.
- 482 iv. Convention and Banquet Facilities are limited to 50% of the facility's  
483 maximum occupancy.
- 484 v. *Cigar Bars, Hookah Bars, Vape Shops* may permit smoking outdoors.
- 485 vi. *Foodservice establishments* may increase indoor capacity to 75% of their  
486 maximum capacity.
- 487 vii. *Religious facilities* may increase capacity to 75% of the facility's maximum  
488 capacity.
- 489 viii. *Sports* may:
- 490 1. Increase the number of participants and spectators pursuant with the  
491 gathering limits stated in paragraph 11(b)(i); and
- 492 2. Engage in play with teams from outside of Maryland, the District of  
493 Columbia, and Virginia.
- 494 c. Upon the Board of Health's receipt of notification by the Health Officer, or the  
495 Health Officer's designee, that 50% of the population has been fully vaccinated  
496 with all required doses of a COVID-19 vaccine, the following must automatically  
497 occur provided face covering usage and social distancing continue to be strictly  
498 followed:
- 499 i. All conduct and business in Montgomery County may follow any State or  
500 MDH requirements that are in place at that time.
- 501 d. If, after a review of the Community Transmission Metrics, the Health Officer  
502 determines that the continued automatic relaxation of restrictions is contrary to the  
503 public health and could lead to the continued spread of COVID-19 or any associated  
504 variant, the Health Officer, or the Health Officer's designee, must notify the Board  
505 of Health of those concerns, and any continued relaxation of restrictions must be  
506 suspended pending a hearing before the Board of Health.]

507

508 **Termination of this Order**

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

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

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

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

528 **13.] Enforcement.** This Order must be enforced by any County department or agency that has  
529 authority over the subject matter of any particular provision and the Montgomery County  
530 Police Department.

531 **[14] 13. Applicability.** This regulation applies Countywide.

532 **[15] 14. Severability.** If the application of this regulation or any part of it to any facts or  
533 circumstances is held invalid, the rest of the regulation and its application to all other facts  
534 and circumstances is intended to remain in effect.

535 **[16] 15. Effective Date.** This regulation takes effect on [April 27] May 18, 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

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:** Sixth 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, March 18, 2021, April 16, 2021 and on May 14, 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 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.
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. The Council Adopted the Fourth Amended Board of Health Regulation on April 20, 2021 in Resolution No. 19-794. The Council Adopted the Fifth Amended Board of Health Regulation in Resolution No. 19-814. This Board of Health Regulation would amend Resolution No. 19-814.
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       **1. Definitions.**

- 2           a.       “*Community Transmission Metrics*” means daily case rates, COVID-19 test  
3                   positivity numbers, and case rates per 100,000 in the preceding 14-day period.
- 4           b.       “*Convention and Banquet Facilities*” means convention facilities, conference  
5                   facilities, banquet and catering facilities, community halls, and Social Clubs,  
6                   including without limitation, hotel ballrooms.
- 7           c.       “*Face Covering*” means a covering that fully covers a person’s nose, mouth, and  
8                   chin and is secured to the person’s head, including cloth face coverings, scarves,  
9                   and bandanas. It does not include face covering with a valve; or solely wearing a  
10                  face shield.
- 11          d.       “*Fitness Centers*” means a fitness center, dance studios, health clubs, health spas,  
12                  gyms, training facilities, ice rinks.
- 13          e.       “*Foodservice Establishment*” means a restaurant, bars, or other similar  
14                  establishments that sell food or beverages for consumption on-premises in  
15                  Montgomery County and social and fraternal clubs with dining facilities.
- 16          f.       “*Fully vaccinated*” means two weeks [after] have passed since a person received  
17                  the last required dose of an approved COVID-19 vaccine.
- 18          g.       “*Graduation*” means any ceremony conferring degrees or diplomas, such as at a  
19                  college or school.
- 20          h.       “*Maximum Occupancy*” means the maximum occupancy load of a facility under  
21                  the applicable fire code or pursuant to applicable laws, regulations, and permits. If  
22                  a facility is not rated for maximum occupancy, a person per square foot option must  
23                  be used to calculate maximum occupancy.
- 24          i.       “*Outdoor Graduation*” means a graduation held in an Outdoor Venue.
- 25          j.       “*Outdoor Venue*” means any outdoor venue in the County at which:
- 26                  (i)       live performances occur, motion pictures are shown, or sporting events  
27                          occur (including, without limitation, major league, professional, minor  
28                          league, semiprofessional, amateur, recreational, motor sports, and collegiate  
29                          sporting events); and
- 30                  (ii)       entry is limited to ticketed customers.
- 31                  “*Outdoor Venue*” does not include golf courses and driving ranges, outdoor archery  
32                  and shooting ranges, marinas and watercraft rental businesses, campgrounds, horse

33 boarding and riding facilities, drive-in movie theaters, outdoor swimming pools,  
34 outdoor day camps, amusement parks, tour boats, miniature golf establishments,  
35 and go-kart tracks.

36 k. *“Personal Service Establishments”* means hair salons, barbershops, and  
37 establishments that provide tanning, tattoo, waxing, threading, electrolysis,  
38 cryotherapy, facial and other skin services, massage, and nail technician services.

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

41 m. *“Public Transportation”* means shared-ride surface transportation services that are  
42 open to the general public, including without limitation, taxi services, ride-sharing  
43 services, car services, and transit services operating within Montgomery County.  
44 Examples of Public Transportation include, but are not limited, to Ride-On bus  
45 service, WMATA bus and train service, MARC train service, and Mobility and  
46 Paratransit services.

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

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

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

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

## 55 **2. Face Coverings.**

56 a. *Requirement to Wear Face Coverings.*

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

- 58 1. in or on any Public Transportation or School Bus;
- 59 2. obtaining health care services, including without limitation in  
60 offices of physicians and dentists, hospitals, pharmacies, and  
61 laboratories; and
- 62 3. indoors in any portion of a School where interaction with others is  
63 likely, including without limitation, classrooms, hallways,  
64 cafeterias, auditoriums, and gymnasiums.

- 65           ii.     All persons who are not fully vaccinated must also wear face coverings  
66                 when indoors;  
67                 1.     in an area where members of the public are generally permitted; and  
68                 2.     in an indoor work area where interaction with others is likely or  
69                 where food is prepared;  
70           iii.    Face coverings are not required outdoors, but persons who are not fully  
71                 vaccinated are strongly encouraged to wear face coverings outdoors.  
72        b.     *Exceptions.* Paragraph 2.a. does not require persons to wear Face Coverings:  
73                 i.     Pursuant to State Executive Order 21-05-14-01 paragraph III.b.

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

- 75        a.     Unless expressly stated to the contrary, all businesses, organizations,  
76                 establishments, and facilities that are permitted to operate under this Order must:  
77                 i.     require strict adherence to social distancing pursuant to CDC or MDH  
78                 guidance, whichever is stricter;  
79                 ii.    utilize markings and signage to guide employees and customers;  
80                 iii.   provide employees with guidance and training to reflect updated CDC  
81                 guidance for their workplace;  
82                 iv.   use CDC and Environmental Protection Agency (“EPA”) approved  
83                 disinfectants to clean spaces daily; and  
84                 v.     require employees to wash their hands hourly.  
85        b.     All businesses, organizations, establishments, and facilities that are permitted to  
86                 open shall post signage indicating that they are in compliance with all provisions  
87                 of paragraph 3.a of this Order.

### 88    **4. Letters of Approval.**

- 89        a.     Requests for a Letter of Approval must be submitted a minimum of 5 business days  
90                 before the scheduled event. Failure to submit a timely request will result in an  
91                 automatic denial of the Letter of Approval.  
92        b.     Failure to obtain a Letter of Approval prior to proceeding with an event will be  
93                 considered to be a violation of this Order and could subject the requestor, organizer,  
94                 and venue to the appropriate fines and sanctions.

95 c. Any person, organizer, or venue who is found to have held an event without a Letter  
96 of Approval will be automatically disqualified from receiving a future Letter of  
97 Approval.

98 **5. Gatherings.**

- 99 a. Unless expressly stated in another paragraph of this Order:
- 100 i. Outdoor gatherings are no longer subject to gathering restrictions.
  - 101 ii. Indoor gatherings of more than 250 people are prohibited.
  - 102 iii. The size of the location and venue of any gathering must accommodate  
103 applicable social distancing for the number of attendees.
  - 104 iv. If more than one household is present at a gathering each individual present  
105 at the gathering must be counted for purposes of determining compliance.

106 **6. Businesses that May Open.**

- 107 a. *Foodservice Establishments.*
- 108 i. Total number of persons permitted in the indoor dining portion of the  
109 foodservice establishment shall not exceed 75% of the maximum  
110 occupancy.
  - 111 ii. Outdoor dining at a foodservice establishment must follow [MDH Order No](#)  
112 [2021-03-09-01](#) paragraph 2.A.
  - 113 iii. May resume buffet service pursuant to [MDH Order No 2021-03-09-01](#).
  - 114 iv. Must require all customers to wear Face Coverings unless actively engaged  
115 in the act of eating or drinking (e.g. while seated at the table and talking but  
116 not eating or drinking) as required in paragraph 2.
  - 117 v. Must maintain a daily record of the date, time, name and contact  
118 information for at least one person for each dining party and maintain the  
119 daily record for at least 30 days, to assist with contact tracing: date;
  - 120 vi. Must post signage at each outdoor dining entrance advising customers and  
121 visitors that:
    - 122 1. they must comply with the Face Covering requirements at all times  
123 when they are not actively eating or drinking;
    - 124 2. they must maintain social distancing of at least 6 feet when waiting  
125 to be seated; and

- 126                                   3.     failure to wear Face Coverings when required by paragraph 2 or  
127                                   maintain social distancing may result in their being refused service  
128                                   and found to be in violation of this order.
- 129       b.     *Cigar Bars/Hookah Bars/Vape Shops.* May permit smoking outdoors.
- 130       c.     *Malls.*
- 131                    i.     May fully reopen pedestrian concourses.
- 132                    ii.    Food courts located inside indoor malls shall follow paragraph 6.a.
- 133                    iii.   Congregating in any indoor area outside of retail stores is prohibited.
- 134                    iv.   Malls may return tables, chairs, benches, or any other items to indoor areas  
135                    outside of retail stores.
- 136       d.     *Religious Facilities.*
- 137                    i.     The total number of persons permitted in a religious facility may not exceed  
138                    75% of the facility's maximum occupancy.
- 139                    ii.    Occupancy numbers shall include faith leaders, volunteers, and  
140                    congregants.
- 141                    iii.   Must follow spacing, screening, cleaning, and music guidelines as stated in  
142                    the County's [Religious Facilities Reopening](#) page.
- 143       e.     *Sports.*
- 144                    i.     Except as provided in paragraph 6(e)(vii), all organized youth sports may  
145                    be played either indoors or outdoors only after a COVID Protocol Plan is  
146                    approved by the County Health Officer or the Officer's designee. The Plan  
147                    must align with guidelines by the CDC, Maryland State Department of  
148                    Education (MSDE), and Montgomery County, and include a plan for;
- 149                                   1.     requiring that face coverings be worn per paragraph 2;
- 150                                   2.     social distancing with at least 6 feet between all participants to the  
151                                   extent possible; and
- 152                                   3.     requiring the use of a student attestation form or COVID-19  
153                                   Athlete/Coach Monitoring Form at all activities conducted.
- 154                    Although voluntary, regular testing should be part of the COVID Protocol  
155                    Plan.

- 156 ii. A Letter of Approval must be obtained before any tournaments,  
157 championships, or events are held in Montgomery County that are expected  
158 to exceed guidelines.
- 159 iii. All organized sports played in the County must comply with the gathering  
160 guidelines described in paragraph 6(e)(i), including limiting the  
161 participating athletes to those listed on the official roster as determined  
162 through the Maryland Public Secondary Schools Athletic Association  
163 (MPSSAA) or the organization’s governing body or league, coaches, and  
164 up to 12 additional participants acting in an official game capacity.
- 165 iv. Sports played outside of an organized league must follow social gathering  
166 guidelines and all persons must comply with the face covering requirements  
167 in paragraph 2.
- 168 v. Play and games with teams from outside of Maryland, Virginia, or the  
169 District of Columbia is permitted.
- 170 vi. Spectators may be permitted at a sports event if:  
171 1. the site has a barrier to delineate the area for spectators from the area  
172 for the participating athletes and coaches;  
173 2. the area for the spectators is large enough to provide for social  
174 distancing between all spectators from different households; and  
175 3. all spectators wear face coverings as required by paragraph 2 and  
176 practice social distancing of at least 6 feet.  
177 The Health Officer or the Officer’s designee may approve a COVID  
178 Protocol Plan that includes more than 250 spectators indoors for an event if  
179 the Officer finds that the Plan provides for reasonable safety for all  
180 participants.
- 181 vii. An organized youth sports league that was approved to operate under a prior  
182 Board of Health Regulation and was not classified as a high risk sport does  
183 not need a new COVID Protocol Plan approved for any event that complies  
184 with the gathering limits and restrictions of the prior approval.

**7. Businesses that may open at 75% Maximum Occupancy.**

- 186 a. *Fitness Centers.*

- 187 i. Fitness Centers that provide sport-specific training for high-risk sports as  
188 defined in [Maryland Sports Commission Return to Play Report](#) must follow  
189 the restrictions in paragraph 6.e above.
- 190 b. *Bowling Alleys.*
- 191 i. all equipment (balls, shoes, etc.) and spaces (lanes, tables, seats) must be  
192 cleaned between each person(s) or group's use with CDC and EPA  
193 approved cleaners; and
- 194 ii. any foodservice establishment located within the bowling alley must follow  
195 paragraph 6 of this Order.
- 196 c. *Escape Rooms.*
- 197 i. Before and after each game, all items in game rooms and items provided to  
198 patrons (including but not limited to lock, props, and any touchable  
199 surfaces) must be thoroughly cleaned using CDC and EPA approved  
200 disinfectants.
- 201 d. *Museums and Art Galleries.*
- 202 i. Exhibits requiring contact (for example "please touch" exhibits or other  
203 interactive displays) may open.
- 204 e. *Personal Services.*
- 205 i. Staff are required to wear gloves, and any other Personal Protective  
206 Equipment as appropriate to their workplace and provided service.
- 207 f. *Pools.*
- 208 i. Must strictly comply with any guidance issued by DHHS.
- 209 g. *Retail Establishments.*
- 210 i. Employees must use any additional Personal Protective Equipment as  
211 appropriate to their workplace.
- 212 h. *Recreation Centers.*
- 213 **8. Other Businesses, Organizations, Establishments, and Facilities that may open at**  
214 **75% capacity.**
- 215 a. *Amusement parks.* Including stand-alone types, such as, but not limited to merry-  
216 go-rounds and roller coasters.
- 217 b. *Bingo halls.*
- 218 c. *Go-kart tracks.*

- 219 d. *Roller skating rinks.*  
220 e. *Social Clubs.*  
221 f. *Theaters.* This Order controls the occupancy and use of theatres in Montgomery  
222 County at which live performances occur or motion pictures are shown  
223 (“Theaters”).  
224 g. *Trampoline Parks.*  
225 h. Any other establishment not listed above that is subject to the admission and  
226 amusement tax under Title 4 of the Tax-General Article of the Maryland Code.

227 **9. Camps.**

- 228 a. *General Requirements.*  
229 i. Campers from outside of Maryland, Virginia, and District of Columbia are  
230 permitted to attend youth camps in Montgomery County.  
231 ii. Camps must follow MDH and COMAR requirements.

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

- 233 a. *Generally.*  
234 i. Persons/groups of guests not of the same household must maintain a  
235 minimum of 6 feet of social distance at all times, including during any  
236 graduate procession.  
237 ii. All persons present must wear face coverings consistent with paragraph 2  
238 of this Regulation.  
239 iii. All persons present must be included in the numerical attendance totals.  
240 This includes students, faculty, staff, workers, vendors, guests, and  
241 speakers.  
242 iv. Any person with a fever or who is exhibiting symptoms of COVID-19, must  
243 not attend a graduation ceremony.  
244 v. A record of all individuals who attended the graduation must be maintained  
245 for at least 30 days to assist with contact tracing. Information collected must  
246 include name, date, phone number and email (if available). This  
247 information must be provided within 24 hours if requested by MCDHHS if  
248 a case of COVID-19 associated with the graduation occurs. Seating charts  
249 must also be provided if used.  
250 vi. The school must post the following signage:



- 251 1. At any entrance(s) stating that nobody with a fever or symptoms of  
252 COVID-19 is permitted to enter the venue and that individuals must  
253 wear a mask or face covering.
- 254 2. Throughout the venue reinforcing social distancing, face covering  
255 usage, and hand hygiene policies.
- 256 3. At areas of entry and egress to allow the one-way flow of attendees.
- 257 4. On floors and sidewalks both inside and outside the venue to provide  
258 physical guides to ensure individuals remain at least 6 feet apart in  
259 queuing areas.
- 260 5. Marking seating arrangements to delineate physically distanced  
261 seating.
- 262 vii. Must prohibit congregating or gathering in common areas both inside and  
263 outside of the venue before or after the graduation ceremony.
- 264 viii. Prohibit group or staged photography.
- 265 b. *Ceremony.*
- 266 i. Ceremonies must not exceed 2 hours, but the venue may be open for an hour  
267 in advance and after the ceremony to prevent crowding at points of ingress  
268 and egress.
- 269 ii. No more than 10 persons must be permitted on the stage at any given time.  
270 Persons on the stage must be spaced at least 6 feet apart.
- 271 iii. Only single performers/speakers must be allowed (e.g., no choirs or bands)  
272 during the ceremony.
- 273 1. A minimum of 12 feet must be maintained from the audience if  
274 performers/speakers are masked.
- 275 2. A minimum of 18 feet must be maintained from the audience if  
276 performers/speakers are unmasked.
- 277 3. Use of shared objects during the graduation should be minimized  
278 (e.g. microphones).
- 279 4. Diplomas must be distributed with no handshake or physical  
280 contact.
- 281 5. No food or beverage service is permitted during ceremonies  
282 (including concession stands).

- 283 6. If permitted by the venue, guests may bring their own  
284 beverages/snacks which may only be consumed while seated.
- 285 7. All guests must be seated and remain in their seats throughout the  
286 ceremony.
- 287 8. Any items handed out to guests must be single use or cleaned and  
288 disinfected between each guest use (e.g., assisted audio devices).
- 289 c. *Communication and Response.* Schools must develop a comprehensive plan to  
290 communicate measures in place to prevent the spread of COVID-19 with all  
291 attendees of the graduation. The plan must:
- 292 i. Identify and address potential language, cultural, and disability barriers in  
293 the communication plan.
- 294 ii. Communicate COVID-19 policies to staff (including vendors), guests and  
295 students, (e.g., on school/graduation website, social media sites, prominent  
296 signage at entrances and throughout the venue, message screens and public  
297 announcements before and during the graduation).
- 298 iii. If an attendee becomes sick while at the graduation ceremony, the school  
299 must have a protocol in place for that individual to immediately leave the  
300 venue. If they are unable to immediately leave (e.g., they need to wait for  
301 a ride), there should be a process that allows them to isolate until they are  
302 able to leave. People who are sick should go home or to a healthcare  
303 facility, depending on the severity of their symptoms. Public transportation  
304 should not be used.
- 305 iv. Must identify a point of contact that staff or an attendee can notify if they  
306 test positive for COVID-19 within the 2 weeks from the date of the  
307 graduation and choose to disclose this information.
- 308 v. In the event of a positive test result, the COVID-19 Point of Contact must  
309 notify the Montgomery County Department of Health and Human Services  
310 (240-777-1755) within one business day of the notice and provide them  
311 with the name and contact information of the positive case.
- 312 vi. Put systems in place to encourage self-reporting.
- 313 d. *Indoor Graduations.*

- 314 i. Total number of persons permitted at an indoor graduation is limited to 250  
315 people.
- 316 ii. Must obtain a Letter of Approval prior to the graduation by submitting a  
317 COVID-19 Graduation Plan which explains how all of the requirements in  
318 paragraphs 10(a) – (c) will be implemented. Any requests for increased  
319 occupancy should be made at this time.
- 320 e. *Outdoor Graduations.*
- 321 i. Total number of persons permitted at an outdoor graduation at any one time  
322 must not exceed the Outdoor Venue’s Maximum Occupancy. If an Outdoor  
323 Venue does not have a formal Certificate of Occupancy, 40 square feet per  
324 person must be used to calculate the occupancy limit.
- 325 ii. Schools planning outdoor graduations should put careful thought and  
326 planning into a back-up plan in case of inclement weather. Back-up venues  
327 must meet all the requirements outlined in this guidance.
- 328 f. *Recommendations.* Although not required, the following are strongly  
329 recommended:
- 330 i. Holding multiple smaller graduation ceremonies as necessary, so that all  
331 graduating students can be accommodated while minimizing crowd sizes.
- 332 ii. Holding a virtual graduation or providing a virtual option for persons who  
333 either do not wish to or are unable to attend.
- 334 iii. Use of pre-assigned/reserved seating is recommended.
- 335 iv. Attendance by persons traveling from outside of Maryland, Virginia, and  
336 the District of Columbia is strongly discouraged.

#### 337 **11. Termination of this Order**

- 338 a. Effective May 28, 2021 at 6:00 a.m. this order will be rescinded and have no further  
339 effect at which point all conduct and business in Montgomery County must follow  
340 any State or MDH requirements that are in place at that time.
- 341 b. If, after a review of the Community Transmission Metrics, the Health Officer  
342 determines that the continued automatic relaxation of restrictions is contrary to the  
343 public health and could lead to the continued spread of COVID-19 or any associated  
344 variant, the Health Officer, or the Health Officer’s designee, must notify the Board

345 of Health of those concerns, and any continued relaxation of restrictions must be  
346 suspended pending a hearing before the Board of Health.

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

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

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

354 **15. Effective Date.** This regulation takes effect on May 18, 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