



Montgomery
County Council

Committee:
Committee Review: N/A
Staff: Robert H. Drummer, Senior Legislative Attorney
Purpose: Final action – vote expected
Keywords: #COVID19PublicHealthOrder

AGENDA ITEMS 1A, 2 & 1B
December 15, 2020
**Introduction/
Public Hearing/Action
ADDENDUM 2**

SUBJECT

Resolution to approve Executive Order No. 139-20AM2, COVID-19 Local Order – Amending and Restating Order dated November 10, 2020

Resolution to adopt a Board of Health Regulation concerning Executive Order No. 139-20AM2, COVID-19 Local Order – Amending and Restating Order dated November 10, 2020

Lead Sponsor: County Council

EXPECTED ATTENDEES

Dr. Travis Gayles, County Health Officer

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

Silvia Kinch, County Attorney's Office

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Whether to modify the restrictions to limit the spread of COVID-19 due to the numbers of infections in the County.
- Executive Order No. 139-20AM2 would amend certain limitations and clarify some existing provisions.

DESCRIPTION/ISSUE

After the addendum to the staff report was posted, the Executive submitted a second amended Executive Order No. 139-20AM2. The amended Executive Order, in addition to the changes described in the addendum staff report and the original staff report, adds language permitting a large retail establishment to exceed the 150 person limit if the retail establishment is large enough to limit capacity to 1 person per 200 sq. ft. of retail space and has received written approval from the County.

SUMMARY OF KEY DISCUSSION POINTS

- Are additional restrictions necessary to slow the spread of COVID-19 throughout the County considering the rising numbers of infections.

This report contains:

Proposed Resolution Approving Executive Order 139-20AM2 – COVID-19 Local Order -Amending and Restating Order dated November 10, 2020	©1
Proposed Resolution Adopting the Board of Health Regulation Adopting Executive Order No. 139-20AM2, COVID-19 Local Order – Amending and Restating Order dated November 10, 2020	©5
Amended Executive Order No. 139-20AM2, COVID-19 Local Order – Amending and Restating Order dated November 10, 2020	©10
Amended Executive Order No. 139-20AM2 showing changes	©23

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Resolution No.: _____
Introduced: December 15, 2020
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY MARYLAND**

Lead Sponsor: County Council

SUBJECT: Approval of Executive Order No. 139-20AM2, COVID-19 Local Order – Amending and Restating Order dated November 10, 2020

Background

1. Maryland Governor Lawrence J. Hogan declared a state of emergency and catastrophic health emergency on March 5, 2020. The Governor’s declaration was renewed on March 17, April 10, May 6, June 3, July 1, July 30, August 10, September 8, September 18, October 6, October 29, and November 30, 2020 to control and prevent the spread of COVID-19 within the State.
2. Local officials must be vigilant in advising all individuals in the County of measures they must take to protect health, safety, and welfare of all.
3. The currently known and available scientific evidence and best practices support continued limitations on large gatherings, increased use of face coverings, and continued social distancing to prevent exposures and transmissions, and reduce the threat to especially vulnerable members of the population.
4. The Centers for Disease Control (CDC) advises that social distancing is the most effective way of slowing the spread of COVID-19. The serious health risk to County residents continues despite efforts to require social distancing.
5. On May 13, 2020 Governor Hogan issued State Executive Order 20-05-13-01 that continued to restrict gatherings of more than ten people for social, community, recreational, leisure, and sporting activities and events, requires the continued closure of certain non-essential businesses, and allows for the limited re-opening of certain businesses and activities under certain conditions. The Governor authorized Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by the State Executive Order if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19.
6. On May 15, 2020, the Executive issued Montgomery County Executive Order 067-20, COVID-19 Local Order, which was more restrictive than State Executive Order 20-05-13-01 and included criteria for safely lifting the stay at home order and beginning to reopen businesses.

7. On May 27, 2020 the Governor issued State Executive Order 20-05-27-01 further expanding reopening of certain businesses and facilities, subject to local regulations.
8. On May 28, Montgomery County had demonstrated significant progress and trends towards meeting much of the criteria listed in County Executive Order 067-20.
9. On May 28, 2020, County Executive Elrich issued Executive Order No. 070-20, COVID-19 Local Order – Phase 1, reducing some of the stay at home restrictions in the County beginning on June 1, 2020.
10. On June 10, 2020, Governor Hogan issued Executive Order 20-06-10-01 lifting more restrictions in the State but again gave Maryland Counties the authority to continue to impose limitations on business and personal activities that were more restrictive than those permitted under the Governor’s Executive Order.
11. On June 15, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations that are more restrictive than the Governor’s Order to prevent the spread of COVID-19 but that some restrictions could be lifted. The Executive issued an Executive Order on June 15 and amended it on June 16. EO 082-20, COVID-19 Local Order – Phase 2, moved the County into Phase 2 by lifting the stay at home order and certain other restrictions on businesses and activities.
12. On August 3, 2020, Governor Hogan issued Executive Order 20-08-03-01 renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order Number 20-08-03-01, if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID- 19.
13. On August 3, 2020, County Executive Elrich, after consulting with the County Health Officer, determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-08-03-01 in order to prevent the spread of COVID-19 and issued Executive Order No. 087-20, COVID-19 Local Order – Amending and Restating Order dated June 19, 2020. The Council approved Executive Order No. 087-20 on August 4, 2020 in Resolution No. 19-579. The Council approved Executive Order No. 098-20 on August 24, 2020 in Resolution No. 19-583.
14. On September 18, 2020, Governor Hogan issued State Executive Order 20-09-18-01 renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order 20-09-18-01, if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19.
15. On September 21, 2020, the Executive issued Executive Order No. 114-20, COVID-19 Local Order – Amending and Restating Order dated August 24, 2020, which imposed limitations on business and personal activities that are more

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

24. On December 9, 2020, the Executive issued Executive Order No. 139-20, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020, which expands the limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-11-17-01 in order to prevent the spread of COVID-19.
25. On December 11, 2020, the Executive issued Executive Order No. 139-20AM, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020, which clarified the restrictions on childcare providers and updated the link to the American Academy of Pediatrics guidance on face coverings.
26. On December 14, 2020, the Executive issued Executive Order No. 139-20AM2, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020. The amended Executive Order 139-20AM2, in addition to the changes made by Executive Order 139-20 and Executive Order 39-20AM, adds language permitting a large retail establishment to exceed the 150 person limit if the retail establishment is large enough to limit capacity to 1 person per 200 sq. ft. of retail space and has received written approval from the County.

Action

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

The Council declares that acting on this Resolution is an emergency and approves Executive Order No. 139-20AM2, COVID-19 Local Order – Amending and Restating Order dated November 10, 2020. This Local Order takes effect on December 15, 2020 at 5:00 p.m.

This is a correct copy of Council action.

Selena Mendy Singleton, Esq., Clerk of the Council

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Resolution No.: _____
Introduced: December 15, 2020
Adopted: _____

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

Lead Sponsor: County Council

Subject: Board of Health Regulation adopting Executive Order No. 139-20AM2, COVID-19 Local Order – Amending and Restating Order dated November 10, 2020.

Background

1. County Code §2-65, as amended effective August 10, 2000, provides that the County Council is, and may act as, the County Board of Health, and in that capacity may adopt any regulation which a local Board of Health is authorized to adopt under state law.
2. Maryland Code Health-General Article §3-202(d) authorizes the County Board of Health to adopt rules and regulations regarding any nuisance or cause of disease in the County.
3. Governor Lawrence J. Hogan proclaimed a state of emergency and catastrophic health emergency on March 5, 2020, and renewed it on March 17, 2020, April 10, 2020, May 6, 2020, June 3, 2020, July 1, 2020, July 30, 2020, August 10, 2020, September 8, 2020, September 18, 2020, October 6, 2020, October 29, 2020, and November 30, 2020, to control and prevent the spread of 2019 Novel Coronavirus (“SARS-CoV-2”) and the disease that it causes - Coronavirus Disease 2019 (“COVID-19”).
4. The effects of COVID-19 require that local health officials be vigilant in advising the residents of measures they can take to protect health, safety, and welfare.
5. The currently known and available scientific evidence and best practices support continued limitations on large gatherings, increased use of face coverings, and continued social distancing to prevent exposures and transmissions, and reduce the threat to especially vulnerable members of the population.
6. The COVID-19 virus is nearly uncontrolled in many locations outside of Maryland. A strong possibility exists that cases will rise back to levels that previously necessitated stay at home orders.

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

15. On August 3, 2020, County Executive Elrich, after consulting with the County Health Officer, determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-08-03-01 in order to prevent the spread of COVID-19 and issued Executive Order No. 087-20, COVID-19 Local Order – Amending and Restating Order dated June 19, 2020. The Council approved Executive Order No. 087-20 on August 4, 2020 in Resolution No. 19-579.
16. On August 21, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-08-03-01 in order to prevent the spread of COVID-19.
17. On August 21, 2020, the Executive issued Executive Order No. 098-20, COVID-19 Local Order – Amending and Restating Order dated August 5, 2020, which imposed limitations on business and personal activities that are more restrictive than those permitted under State Executive Orders, but lessens the restrictions on certain businesses and activities. The Council approved Executive Order No. 098-20 on August 24, 2020 in Resolution No. 19-583.
18. On September 18, 2020, Governor Hogan issued State Executive Order 20-09-18-01 renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order 20-09-18-01, if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19.
19. On September 21, 2020, the Executive issued Executive Order No. 114-20, COVID-19 Local Order – Amending and Restating Order dated September 22, 2020, which imposed limitations on business and personal activities that are more restrictive than those permitted under State Executive Orders, but lessens the restrictions on certain businesses and activities. On September 22, 2020, the Council adopted Resolution No. 19-598, which approved Executive Order 114-20.
20. On September 26, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-09-18-01 in order to prevent the spread of COVID-19.
21. On September 26, 2020, the Executive issued Executive Order No. 117-20, COVID-19 – Local Order Amending and Restating Order dated September 22, 2020, which allows certain food service establishments to apply for a Late-Night Alcohol Sales Program permit. The Council approved Executive Order 117-20 on October 1, 2020 and the Board of Health approved Executive Order 117-20 as a Board of Health Regulation on October 1, 2020 in Resolution No. 19-618.

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

30. On December 11, 2020, the Executive issued Executive Order No. 139-20AM2, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020, which clarified the restrictions on childcare providers and updated the link to the American Academy of Pediatrics guidance on face coverings.
31. On December 14, 2020, the Executive issued Executive Order No. 139-20AM2, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020. The amended Executive Order 139-20AM2, in addition to the changes made by Executive Order 139-20 and Executive Order 39-20AM, adds language permitting a large retail establishment to exceed the 150 person limit if the retail establishment is large enough to limit capacity to 1 person per 200 sq. ft. of retail space and has received written approval from the County.
32. The Council held a public hearing and worksession on Executive Order 139-20AM2 on December 15.
33. 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.
34. The County Council, sitting as the Board of Health, finds after hearing the testimony and other evidence in the record of the public hearing, finds that the limitations on business and personal activities contained in Executive Order No. 139-20AM2, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020 are necessary to limit the spread of COVID-19.

Action

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

Executive Order No. 139-20AM2, COVID-19 – Local Order Amending and Restating Order dated November 10, 2020, attached hereto, is adopted as a Board of Health Regulation for Montgomery County and takes effect on December 15, 2020 at 5:00 p.m.

This is a correct copy of Council action.



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

BACKGROUND

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

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

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

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

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

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

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

NOW, THEREFORE, BE IT ORDERED, PURSUANT TO THE AUTHORITY GRANTED IN GOVERNOR HOGAN'S EXECUTIVE ORDER [20-11-17-01](#) AND IN AN EFFORT TO PROTECT THE PUBLIC HEALTH, WELFARE, AND SAFETY, AND CONTROL AND PREVENT THE SPREAD OF COVID-19 WITHIN MONTGOMERY COUNTY, I HEREBY ORDER:



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

1. Administrative and Implementing Provisions.

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

2. Face Coverings.

a. Definitions.

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

b. Requirement.

- i. Except as provided in paragraph 2.c below, all persons in the County over the age of two (2) years old are required to wear a Face Covering when
 - (1) in or on any form of Public Transportation;
 - (2) indoors at any location where members of the public are generally permitted, including without limitation, Religious Facilities, Retail Establishments, Foodservice Establishments, Fitness Centers, Gaming Facilities, Indoor Recreation Establishments, and Personal Services Establishments;
 - (3) leaving their residences and likely to come into contact with another person, such as being within 6 feet of another person for more than a fleeting time;
 - (4) obtaining healthcare services, including without limitation, in offices of physicians and dentists, hospitals, pharmacies, and laboratories; and



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

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

3. General Operating Requirements.

- a. Unless explicitly stated in another provision of this order, all businesses, organizations, establishments, and facilities that are permitted to operate under this Order shall, as a condition of their continued operation:



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

- i. require employees and customers to maintain social distancing of greater than 6 feet, whenever possible, as recommended by the Centers for Disease Control and Prevention (“CDC”) and the Maryland Department of Health (“MDH”);
- ii. utilize markings and signage to guide employees and customers;
- iii. comply with the face covering requirements in paragraph 2.b;
- iv. provide employees with guidance and training to reflect updated CDC guidelines for their workplace;
- v. use CDC and Environmental Protection Agency (“EPA”) approved disinfectants to clean spaces daily; including use of disinfectants to wipe down high contact surfaces at least once every 2 hours while staff or customers are present (“high contact surfaces” are surfaces that will have human contact at least once an hour);
- vi. require employees to wash their hands hourly; and
- vii. follow review and implement new CDC, MDH, and Montgomery County Department of Health & Human Services (“DHHS”) guidelines as they are issued.

b. All businesses, organizations, establishments, and facilities in Montgomery County shall comply with any directive or orders issued by the Local Health Officer, pursuant to State Executive Orders [20-04-05-02](#) (“Delegating Authority to Local Officials to Control and Close Unsafe Facilities”) and [20-11-17-01](#) (“Amending and Restating the Order Allowing Reopening of Certain Businesses and Facilities Subject to Local Regulations and Generally Requiring Use of Face Coverings”), as may be amended from time to time.

c. All businesses, organizations, establishments, and facilities that are permitted to open shall post signage indicating that they are in compliance with all provisions of paragraph 3.a of this Order.

d. Unless explicitly stated to the contrary, the General Operating requirements apply to all provisions in this order.

4. Letters of Approval.

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



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

5. Gatherings.

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

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

- a. *Bowling alleys.* May open provided:
 - i. number of persons is limited to 25% occupancy or a maximum of 25 people, whichever number is lower;
 - ii. all equipment (balls, shoes, etc.) and spaces (lanes, tables, seats) must be cleaned between each person(s) or group’s use with CDC and EPA approved cleaners; and
 - iii. any foodservice establishment located within the bowling alley must conform to all of the standards as established in paragraph 6.e. of this Order.
- b. *Childcare.* Must continue to follow the phase two childcare capacity limits and child-adult ratios that are currently in effect for all childcare providers in Montgomery County as stated in the Maryland Department of Education’s [June 10, 2020 Child Care Operating Procedures](#) and [November 19, 2020 waiver letter](#).



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

- c. *Cigar Bars/Hookah Bars/Vape Shops.* May open solely to sell retail goods. Smoking on site is strictly prohibited.
- d. *Fitness Centers.* May open provided:
 - i. limit 1 person per 200 sq. ft. of indoor space or 25% occupancy, whichever number is lower;
 - ii. strictly enforce social distancing and the requirement that individuals wear masks while exercising; and
 - iii. follow the State’s [Best Practices for Fitness Centers, Martial Arts, Dance Studios](#) as amended from time to time.
 - iv. Fitness Centers include, but are not limited to dance studios, health clubs, health spas, gyms, training facilities, and other indoor physical activities.
 - v. Fitness Centers that provide sport-specific training for high-risk sports as defined in [Maryland Sports Commission Return to Play Report](#) must follow the restrictions in paragraph 6.1 below.
- e. *Foodservice Establishments.*
 - i. Restaurants, bars, and other similar establishments that sell food or beverages for consumption on-premises in Montgomery County (“Restaurants and Bars”), and social and fraternal clubs (“Social Clubs”) with dining facilities, [and foodservices in healthcare facilities,] to the extent permitted by applicable law:
 - (1) must suspend service of food and beverage to customers for consumption indoors;
 - (2) may only serve food and beverages to customers for consumption in outdoor seating areas between the hours of 6 a.m. and 10 p.m.;
 - (3) sell food and beverages that are promptly taken from the premises, i.e., on a carry-out or drive-through basis; and/or
 - (4) deliver food and beverages to customers off the premises.
 - ii. Foodservices in licensed healthcare facilities may continue to operate indoor dining provided they follow all other social distancing and cleaning requirements.
 - iii. Food service establishments that erect a temporary outdoor structure, such as a tent, for the purpose of outdoor dining:
 - (1) must follow all guidelines issued by DHHS and DPS and obtain any necessary permits from the Department of Permitting Services for the temporary structure;
 - (2) temporary outdoor structures that are in the shape of a rectangle, must at all times maintain at least one side of the structure entirely open;



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

- (3) temporary outdoor structures that are not in the shape of a rectangle (e.g. yurts or dining bubbles) must apply for and obtain a Letter of Approval before being used by the food service establishment;
 - (4) total capacity for a temporary outdoor structure may not exceed 1 table per every 50 sq. ft, but there must be a minimum of 6 ft between persons seated at different tables.
- iv. Foodservice establishments must follow all provisions of the MDH’s [Amended Directive and Order Regarding Food Service Establishments](#) (Order No. MDH 2020-11-17-03) that do not conflict with any provision of this Order;
- v. Foodservice establishments shall not be open to the public between the hours of 10:00 p.m. and 6:00 a.m.; provided, however, that during such hours Foodservice Establishments may continue to:
 - (1) sell food and beverages that are promptly taken from the premises (i.e., on a carry-out or drive-through basis), and
 - (2) deliver food and beverages to customers off the premises;
- vi. must maintain a daily record of the following information for at least 30 days, to assist with contact tracing:
 - (1) date;
 - (2) time; and
 - (3) name and contact information for at least one person of each outdoor dining party;
- vii. must post signage at each outdoor dining entrance advising customers and visitors that:
 - (1) they must comply with the face covering requirements at all times when they are not actively eating or drinking;
 - (2) they must maintain social distancing of at least 6 feet when waiting to be seated; and
 - (3) failure to wear face coverings or maintain social distancing may result in their being refused service and found to be in violation of the COVID-19 Local Order and subject to criminal penalties as stated in the Order.
- f. *Malls.*
 - i. Shopping centers with one or more enclosed pedestrian concourses may maintain pedestrian concourses and other interior common areas open, but solely to the extent necessary for the general public to enter and exit retail establishments.
 - ii. Food courts located inside indoor malls shall be limited to carry-out services only; dining at tables or other spaces in food courts is prohibited.
 - iii. Congregating in any indoor area outside of retail stores (including food courts) is prohibited.



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

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

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

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

h. *Personal Services.*

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

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

j. *Retail Establishments.* May open provided:

- i. limit 1 person per 200 sq. ft of retail space;
- ii. any retail establishment that intends to have and, per paragraph 6.j.i., can physically accommodate more than 150 persons must, effective 5:00 p.m. on December 23, 2020, have a Letter of Approval to exceed 150 persons
- iii. all requests for a Letter of Approval to exceed 150 persons must:
 - (1) detail how the establishment will monitor the number of people in the building at any given time;
 - (2) detail how the establishment will ensure maintained social distancing at points of congregation in the building such as the entrance, exit, in check-out lines; and between check-out lines;
 - (3) detail modified staffing strategies to reduce employee exposure; and
 - (4) be submitted by 5:00 p.m. December 21, 2020; and



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

iv. employees use any additional Personal Protective Equipment as appropriate to their workplace.

k. *Religious Facilities.* Churches, synagogues, mosques, temples, and other similar religious facilities of any faith (“Religious Facilities”) may open to the general public for indoor and outdoor services provided the Religious Facility complies with the following:

i. Gathering size.

(1) shall be determined by dividing the total square footage of the worship space by 50, however total number of persons shall not exceed 25% of permitted occupancy; and

(2) occupancy numbers shall include faith leaders, volunteers, and congregants.

ii. Spacing.

(1) seating must be marked to reflect appropriate distancing;

(2) facilities with fixed seating or pews, every other row must remain empty and marked off to prohibit seating;

(3) individuals that are not a part of the same household must maintain 6 feet of social distance from the point of entry into the facility through their exit from the facility; and

(4) only exceptions are where the core activity or safety require shorter distance (for example, pallbearers).

iii. Other requirements.

(1) Prior to the first service of each day in which they participate, faith leaders, volunteers and other staff must:

a. be screened (verbally, in writing, or online) using the following questions:

i. Are you suffering from any of the common symptoms of COVID-19 (coughing, difficulty breathing, loss of taste etc.)?

ii. Have you had close personal contact with anybody known to have a positive COVID-19 diagnosis over the past two weeks?

b. where allowed by religious tenant, have their temperature screened:

i. anyone with a temperature in excess of 100.4°F must be excluded from the religious facility until at least 72 hours after symptoms resolve.

c. exclude anyone that exhibits symptoms consistent with COVID-19 until at least 72 hours after their symptoms resolve; and

d. notify Montgomery County Disease Control at 240-777-1755 if they learn that a person who attended or participated in a religious



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

ceremony is diagnosed with or develops symptoms consistent with COVID-19.

(2) Use CDC and EPA approved disinfectants to clean restrooms and high contact surfaces between each religious service.

iv. absent a Letter of Approval from DHHS, the number of outdoor service participants shall not exceed 25 participants.

1. *Sports.*

i. All sports are categorized by level of risk as detailed in the [Maryland Sports Commission Return to Play Report](#) with the following exceptions:

(1) solo kayaking/canoeing is considered to be low risk;

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

ii. Only the play of low-risk and medium-risk sports is permitted.

iii. The play of high-risk sports is prohibited, however no-contact skills-building and drills are permitted.

iv. High-risk sport scrimmages, games, matches, and competitions are prohibited.

v. All sports participants, regardless of age must comply with the face covering requirement in paragraph 2.b, and the social distancing and hygiene requirements of paragraph 3.a.

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

vii. All tournaments, championships, or events are strictly prohibited unless a Letter of Approval is issued by the County.

viii. Sports played outside must follow outdoor gathering guidelines and the total number of people present is limited to 25. This includes staff, coaches, players, and any parents, guardians, or immediate family.

ix. Sports played inside must follow the indoor gathering guidelines and the total number of people present is limited to 10. This includes staff, coaches, players, and any parents, guardians, or immediate family.

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

xi. Sports may not open to the general public or spectators. Parents, guardians, and immediate family of players may spectate provided they maintain the appropriate social distancing of greater than 6 feet between non-family members and the total number of individuals present does not exceed the applicable gathering size limit.

m. *Youth Camp Programs.*



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

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

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

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

(1) Playgrounds are excluded from the cleaning requirements of paragraph 3.a.v.
- h. *Ice skating rinks.*
 - i. Indoor ice skating rinks remain closed to the public but may operate as a Fitness Center for the purpose of individual or group training pursuant to paragraph 6.l.
 - ii. Outdoor ice skating rinks must follow the gathering size requirements, pursuant to paragraph 5 of this Order, and submit a request for a Letter of Approval, pursuant to paragraph 4, before reopening.

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

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



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

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

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

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

10. This Order shall be enforced by any County department or agency that has authority over the subject matter of any particular provision and the Montgomery County Police Department.

11. I hereby adopt by reference the following portions of State Executive Order [20-11-17-01](#):

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

12. Pursuant to State Executive Order [20-11-17-01](#) paragraph VII.b, a person who knowingly and willfully violates this Order is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding one year or a fine not exceeding \$5,000 or both.

13. Enforcement of this Local Order shall be done in accordance with the provisions established in State Executive Order [20-11-17-01](#) and any other applicable local law.



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

- 14. This Local Order may be amended, upon consultation with the Local Health Officer and the approval of the Montgomery County Council.
- 15. If any provision of this Local Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of the Order shall remain in effect to the extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Local Order are severable.
- 16. This Local Order shall take effect December 15, 2020 at 5:00 p.m.

By: 
MARC ELRICH
County Executive

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

By: 
Silvia C. Kinch, Division Chief

Date: 12/14/2020



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

BACKGROUND

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

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

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

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

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

WHEREAS, on [October 16] November 17, 2020 Governor Hogan issued State Executive Order [\[20-10-16-02\] 20-11-17-01](#), which renews the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order [\[20-10-16-02\] 20-11-17-01](#), if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19; and

WHEREAS, Montgomery County has determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order [\[20-10-16-02\] 20-11-17-01](#) in order to prevent the spread of COVID-19;

NOW, THEREFORE, BE IT ORDERED, PURSUANT TO THE AUTHORITY GRANTED IN GOVERNOR HOGAN’S EXECUTIVE ORDER [\[20-10-16-02\] 20-11-17-01](#) AND IN AN EFFORT TO PROTECT THE PUBLIC HEALTH, WELFARE, AND SAFETY, AND CONTROL AND PREVENT THE SPREAD OF COVID-19 WITHIN MONTGOMERY COUNTY, I HEREBY ORDER:



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

1. Administrative and Implementing Provisions.

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

2. Face Coverings.

a. Definitions.

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

b. Requirement.

- i. Except as provided in paragraph 2.c below, all persons in the County over the age of two (2) years old are required to wear a Face Covering when
 - (1) in or on any form of Public Transportation;
 - (2) indoors at any location where members of the public are generally permitted, including without limitation, Religious Facilities, Retail Establishments, Foodservice Establishments, Fitness Centers, Gaming Facilities, Indoor Recreation Establishments, and Personal Services Establishments;
 - (3) [outdoors and unable to consistently maintain at least six feet of distance from individuals who are not members of their household] leaving their residences and likely to come into contact with another person, such as being within 6 feet of another person for more than a fleeting time;



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

(4) obtaining healthcare services, including without limitation, in offices of physicians and dentists, hospitals, pharmacies, and laboratories; and
 [(4)] (5) engaged in work in any area where:

- a. interaction with others is likely, including without limitation, in shared areas of commercial offices; or
- b. food is prepared or packaged; and

(6) at all times in a foodservice establishment unless actively engaged in eating or drinking.

- ii. Single-use Face Coverings shall be properly discarded in trash receptacles. It is recommended that all reusable Face Coverings be cleaned frequently (at least once per day).
- iii. Wearing a Medical-Grade Mask satisfies any requirement in paragraph 2.b to wear a Face Covering, but all persons in Montgomery County are urged to reserve Medical-Grade Masks for use by health care workers and first responders.

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

- i. if, due to a bona fide disability or medical condition, it would be unsafe for the person to do so;
- ii. to the extent wearing a Face Covering would impede communication by or with persons who have a hearing impairment or other disability, where the ability to see the mouth is essential for communication;
- iii. if wearing a Face Covering would subject the person to an unsafe working condition, as determined by federal, state, or local occupational safety regulators or workplace safety guidelines;
- iv. to the extent wearing a Face Covering would make it impossible to receive services requiring access to the face, mouth, or head, including without limitation, dental care, shaving, and facial treatments;
- v. while actively engaged in eating or drinking [consuming food or beverages];
- vi. while swimming or engaging in other physical activities where the use of a Face Covering is likely to pose a bona fide safety risk;
- vii. for individuals under the age of eighteen (18) [who are] when actively engaged in sports – as recommended by the [American Academy of Pediatrics](#); or
- viii. while operating any Public Transportation conveyance, provided that the person is (1) the sole operator of the conveyance, and (2) located in a separate compartment that is off-limits to riders.



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

3. General Operating Requirements.

- a. Unless explicitly stated in another provision of this order, all businesses, organizations, establishments, and facilities that are permitted to operate under this Order shall, as a condition of their continued operation:
 - i. require employees and customers to maintain social distancing of greater than 6 feet, whenever possible, as recommended by the Centers for Disease Control and Prevention (“CDC”) and the Maryland Department of Health (“MDH”);
 - ii. utilize markings and signage to guide employees and customers;
 - iii. comply with the face covering requirements in paragraph 2.b;
 - iv. provide employees with guidance and training to reflect updated CDC guidelines for their workplace;
 - v. use CDC and Environmental Protection Agency (“EPA”) approved disinfectants to clean spaces daily; including use of disinfectants to wipe down high contact surfaces at least once every 2 hours while staff or customers are present (“high contact surfaces” are surfaces that will have human contact at least once an hour);
 - vi. require employees to wash their hands hourly; and
 - vii. follow review and implement new CDC, MDH, and Montgomery County Department of Health & Human Services (“DHHS”) guidelines as they are issued.
- b. All businesses, organizations, establishments, and facilities in Montgomery County shall comply with any directive or orders issued by the Local Health Officer, pursuant to State Executive Orders [20-04-05-02](#) (“Delegating Authority to Local Officials to Control and Close Unsafe Facilities”) and [\[20-10-16-02\]](#) [20-11-17-01](#) (“Amending and Restating the Order Allowing Reopening of Certain Businesses and Facilities Subject to Local Regulations and Generally Requiring Use of Face Coverings”), as may be amended from time to time.
- c. All businesses, organizations, establishments, and facilities that are permitted to open shall post signage indicating that they are in compliance with all provisions of paragraph 3.a of this Order.
- d. Unless explicitly stated to the contrary, the General Operating requirements apply to all provisions in this order.

4. Letters of Approval.

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



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

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

5. Gatherings.

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

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

- a. *Bowling alleys.* May open provided:
 - i. number of [patrons] persons is limited to 25% occupancy or a maximum of 25 people, whichever number is lower;
 - ii. all equipment (balls, shoes, etc.) and spaces (lanes, tables, seats) must be cleaned between each person(s) or group’s use with CDC and EPA approved cleaners; and



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

iii. any foodservice establishment located within the bowling alley must conform to all of the standards as established in paragraph 6.e. of this Order.

b. *Childcare.* Must continue to follow the phase two childcare capacity limits and child-adult ratios that are currently in effect for all childcare providers in Montgomery County as stated in the Maryland Department of Education’s [June 10, 2020 Child Care Operating Procedures](#) and [November 19, 2020 waiver letter](#). [All applicable Code of Maryland Regulations regarding staff-child ratio must be followed.]

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

d. *Fitness Centers.* May open provided:

- i. limit 1 [patron] person per 200 sq. ft. of indoor space or 25% occupancy, whichever number is lower;
- ii. [require] strictly enforce social distancing and the requirement that individuals [to] wear masks while exercising; and
- iii. follow the State’s [Best Practices for Fitness Centers, Martial Arts, Dance Studios](#) as amended from time to time.
- iv. Fitness Centers include, but are not limited to dance studios, health clubs, health spas, gyms, training facilities, and other indoor physical activities.
- v. Fitness Centers that provide sport-specific training for high-risk sports as defined in [Maryland Sports Commission Return to Play Report](#) must follow the restrictions in paragraph 6.1 below.

e. *Foodservice Establishments.*

- i. Restaurants, bars, and other similar establishments that sell food or beverages for consumption on-premises in Montgomery County (“Restaurants and Bars”), and social and fraternal clubs (“Social Clubs”) with dining facilities, [and foodservices in healthcare facilities,] to the extent permitted by applicable law:
 - (1) must suspend service of food and beverage to customers for consumption indoors;
 - (2) may only serve food and beverages to customers for consumption in outdoor seating areas between the hours of 6 a.m. and 10 p.m.;
 - (3) sell food and beverages that are promptly taken from the premises, i.e., on a carry-out or drive-through basis; and/or
 - (4) deliver food and beverages to customers off the premises.
- ii. Foodservices in licensed healthcare facilities may continue to operate indoor dining provided they follow all other social distancing and cleaning requirements.



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

iii. Food service establishments that erect a temporary outdoor structure, such as a tent, for the purpose of outdoor dining:

- (1) must follow all guidelines issued by DHHS and DPS and obtain any necessary permits from the Department of Permitting Services for the temporary structure;
- (2) temporary outdoor structures that are in the shape of a rectangle, must at all times maintain at least one side of the structure entirely open;
- (3) temporary outdoor structures that are not in the shape of a rectangle (e.g. yurts or dining bubbles) must apply for and obtain a Letter of Approval before being used by the food service establishment;
- (4) total capacity for a temporary outdoor structure may not exceed 1 table per every 50 sq. ft, but there must be a minimum of 6 ft between persons seated at different tables.

[(1)] iv. [Must] Foodservice establishments must follow all provisions of the MDH’s Amended Directive and Order Regarding Food Service Establishments (Order No. MDH [20-09-18-01] 2020-11-17-03) that do not conflict with any provision of this Order;

[(2)] total capacity of an indoor food service establishment shall not exceed 25% of that facility’s maximum occupancy;]

v. Foodservice establishments shall not be open to the public between the hours of 10:00 p.m. and 6:00 a.m.; provided, however, that during such hours Foodservice Establishments may continue to

- 1. sell food and beverages that are promptly taken from the premises (i.e., on a carry-out or drive-through basis), and
- 2. deliver food and beverages to customers off the premises;

[(3)] shall ensure that all alcoholic beverages are off all tables and collected from patrons by 10 p.m.;

[(4)] shall suspend the sale or provision of alcoholic beverages for on-site consumption after 10 p.m.;

[(5)] may, to the extent permitted by law, continue to sell food and beverages that are promptly taken from the premises, i.e., on a carry-out, drive-through, or delivery basis;]

[(6)] vi. must maintain a daily record of the following information for at least 30 days, to assist with contact tracing:

- [a.] (1) date;
- [b.] (2) time; and
- [c.] (3) name and contact information for at least one person of each outdoor dining [dine-in] party;



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

- [(7) must follow any guidelines issued by DHHS and, to the extent applicable, the Department of Permitting Services;
- (8) vii. must post signage at each outdoor dining entrance advising customers and visitors that:
 - [a.] (1) they must comply with the face covering requirements at all times when they are not actively eating or drinking;
 - [b.] (2) they must maintain social distancing of at least 6 feet when waiting to be seated; and
 - [i. waiting to be seated
 - ii. when seated at a bar.]
 - [c.] (3) failure to wear face coverings or maintain social distancing may result in their being refused service and found to be in violation of the COVID-19 Local Order and subject to criminal penalties as stated in the Order.
- [ii. Food service establishments that, within the last 60 days, have not received a citation or been closed due to violations related to any State or local executive order related to COVID-19 may apply for a Late-Night Alcohol Sales Program permit which would allow for alcohol service from 10 p.m. to 12 a.m.
 - (1) To receive a Late-Night Alcohol Sales Program permit a food service establishment must agree to the following requirements:
 - a. designate a staff member (or hire a contractor) whose sole responsibility is to monitor and enforce face covering and social distancing requirements of this Order, and any subsequent amendments thereto;
 - b. ensure that all alcoholic beverages are off all tables and collected from patrons by 12 a.m.;
 - c. suspend the sale or provision of alcoholic beverages after 12 a.m.; and
 - d. follow all protocols and guidelines issued by DHHS and the Board of License Commissioners related to this Program.
 - (2) Food service establishments that receive a Late-Night Alcohol Sales Program permit will be subject to frequent and unscheduled inspections.
 - (3) Food service establishments that are found to have violated any of the Late-Night Alcohol Sales Program requirements will be subject to:
 - e. immediate revocation of the permit;
 - f. the suspension or revocation of their license to sell alcohol; and/or
 - g. fines up to \$20,000.
 - (4) The Late-Night Alcohol Sales Program will be automatically suspended if any of the following occur:



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

- h. the 3-day test positivity average in Montgomery County exceeds 3.25%;
- i. the 7-day average of confirmed COVID-19 cases exceeds 100;
- j. there is an increased association of Indoor and Outdoor dining with COVID-19 positive contacts of greater than 3% combined; or
- k. more than 10% of inspected participants result in findings that warrant a citation, closure, or revocation of a permit.]

f. *Malls.*

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

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

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

h. *Personal Services.*

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



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

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



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

- a. be screened (verbally, in writing, or online) using the following questions:
 - i. Are you suffering from any of the common symptoms of COVID-19 (coughing, difficulty breathing, loss of taste etc.)?
 - ii. Have you had close personal contact with anybody known to have a positive COVID-19 diagnosis over the past two weeks?
- b. where allowed by religious tenant, have their temperature screened:
 - i. anyone with a temperature in excess of 100.4°F must be excluded from the religious facility until at least 72 hours after symptoms resolve.
- c. exclude anyone that exhibits symptoms consistent with COVID-19 until at least 72 hours after their symptoms resolve; and
- d. notify Montgomery County Disease Control at 240-777-1755 if they learn that a person who attended or participated in a religious ceremony is diagnosed with or develops symptoms consistent with COVID-19.

(2) Use CDC and EPA approved disinfectants to clean restrooms and high contact surfaces between each religious service.

iv. absent a Letter of Approval from DHHS, the number of outdoor service participants shall not exceed [150] 25 participants.

1. Sports.

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



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

- viii. Sports played outside must follow outdoor gathering guidelines and the total number of people present is limited to 25. This includes staff, coaches, players, and any parents, guardians, or immediate family. [, with the following exception:]
 - [1. The number of persons present may exceed 25 solely to accommodate the presence of 1 parent or guardian spectator per youth participant.]
- ix. Sports played inside must follow the indoor gathering guidelines and the total number of people present is limited to 10. This includes staff, coaches, players, and any parents, guardians, or immediate family. [and size restrictions for fitness centers, with the following exception:]
 - [1. The number of persons present may exceed the size restriction solely to accommodate the presence of 1 parent or guardian per youth participant.]
- x. Play and games with teams from outside of Maryland, Virginia, or the District of Columbia is prohibited.
- xi. Sports may not open to the general public or spectators [other than those identified in paragraph 6.l.xi.(1)]. Parents, guardians, and immediate family of players may spectate provided they maintain the appropriate social distancing of greater than 6 feet between non-family members and the total number of individuals present does not exceed the applicable gathering size limit.
 - [1. For outdoor sports parents, guardians, and immediate family of players may spectate provided they maintain the appropriate social distancing of greater than 6 feet between non-family members.]

m. *Youth Camp Programs.*

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

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

a. *Car Wash.*

b. *Escape Rooms.*

- i. Only private games of a maximum of 6 people all permitted.
- ii. All games are by appointment only and must be staggered so as to prevent patrons from interacting with others outside of their group.
- iii. Before and after each game, all items in game rooms (including but not limited to lock, props, and any touchable surfaces) are thoroughly cleaned using CDC and EPA approved disinfectants.
- iv. The lobby area is sanitized and cleaned every hour to prevent prolonged exposure and contact for other patrons.
- v. All items given to the patrons (walkie-talkies, boogie boards) are sanitized after each game prior to the use from another group.



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

- c. *Farms.* For “pick-your-own” produce by members of the public.
 - d. *Manufacturing.*
 - e. *Miniature golf.*
 - f. *Office space.*
 - g. *Outdoor recreation.*
 - i. parks for personal fitness and fitness classes;
 - ii. golf courses and driving ranges;
 - iii. outdoor archery and shooting ranges;
 - iv. marinas and watercraft rental businesses;
 - v. campgrounds;
 - vi. horse boarding and riding facilities; and
 - vii. playgrounds.

(1) Playgrounds are excluded from the cleaning requirements of paragraph 3.a.v.
 - h. *Ice skating rinks.*
 - i. Indoor ice skating rinks remain closed to the public but may operate as a Fitness Center for the purpose of individual or group training pursuant to paragraph 6.1.
 - ii. Outdoor ice skating rinks must follow the gathering size requirements, pursuant to paragraph 5 of this Order, and submit a request for a Letter of Approval, pursuant to paragraph 4, before reopening.
8. Other Businesses, Organizations, Establishments, and Facilities Required to Close.
- a. *Amusement parks.* Including stand-alone types, such as, but not limited to merry-go-rounds and roller coasters.
 - b. *Bingo halls.*
 - c. *Go-kart tracks*
 - d. *Recreation centers.*
 - e. *Roller skating rinks.*
 - f. *Senior Centers.*
 - g. *Social Clubs.*
 - h. *Theaters.*
 - i. This Order controls the occupancy and use of theatres in Montgomery County at which live performances occur or motion pictures are shown (“Theaters”).
 - ii. All Theaters shall remain closed to the general public.
 - i. *Trampoline Parks.*
 - j. Any other establishment not listed above that is subject to the admission and amusement tax under Title 4 of the Tax-General Article of the Maryland Code.



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

9. *Minimal Operations.* Staff and owners may continue to be on-site at any business, organization, establishment, or facility that is required to be closed pursuant to this Order only for the following purposes:
 - a. Facilitating remote working (a/k/a/ telework) by other staff;
 - b. Maintaining essential property;
 - c. Preventing loss of, or damage to property, including without limitation, preventing spoilage of perishable inventory;
 - d. Performing essential administrative functions, including without limitation, picking up mail and processing payroll; and
 - e. Caring for live animals.
10. This Order shall be enforced by any County department or agency that has authority over the subject matter of any particular provision and the Montgomery County Police Department.
11. I hereby adopt by reference the following portions of State Executive Order [\[20-10-16-02\]](#) [20-11-17-01](#):
 - a. paragraph III.k (“Determination of Maximum Occupancy”); and
 - b. paragraph VII (“General Provisions”) and all its subparagraphs.
12. Pursuant to State Executive Order [\[20-10-16-02\]](#) [20-11-17-01](#) paragraph VII.b, a person who knowingly and willfully violates this Order is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding one year or a fine not exceeding \$5,000 or both.
13. Enforcement of this Local Order shall be done in accordance with the provisions established in State Executive Order [\[20-10-16-02\]](#) [20-11-17-01](#) and any other applicable local law.
14. This Local Order may be amended, upon consultation with the Local Health Officer and the approval of the Montgomery County Council.
15. If any provision of this Local Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of the Order shall remain in effect to the extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Local Order are severable.



MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated November 10, 2020	Executive Order No. 139-20AM2	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 12/15/2020

16. This Local Order shall take effect [November 10] December 15, 2020 at 5:00 p.m.

By: 
MARC ELRICH
County Executive

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

By: 
Silvia C. Kinch, Division Chief

Date: 12/14/2020